

# Exhibit 1

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CV - 10 3609

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U.S. DISTRICT COURT E.D.N.Y.

★ AUG 05 2010 ★

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

MOHAMMED M. AHMED;

Plaintiff,

v.

COMPLAINT

T.J. MAXX CORP. and  
TJX COMPANIES INC.;

Defendants.

SPATT, J.

BOYLE, M.

Plaintiff, Mohammed M. Ahmed ("Ahmed") by and through his attorneys at Valli Kane & Vagnini LLP, brings this action for damages and other legal and equitable relief from the Defendants' violation of Wage and Hour laws and those laws proscribing retaliation for complaining about such violations, stating the following as Plaintiff's claims against T.J. Maxx Corp. and its parent company TJX Companies Inc. ("TJX"), (collectively "Defendants"):

### INTRODUCTION

I. This is an action brought by Plaintiff challenging acts committed by Defendants amounting to violations of Federal and State wage and hour law as well as the laws prohibiting retaliation for complaints relating to those statutes. Defendants' acts of retaliation are in violation of New York State Labor Law § 215, et seq.; and the Fair Labor Standards Act, 29 U.S.C. § 201 et. seq.

### JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, which confers original jurisdiction upon this Court for actions arising under the laws of the United States, and pursuant to 28 U.S.C. §§ 1343(3) and 1343(4), which confer original jurisdiction upon this Court in a civil action to recover damages or to secure equitable relief (i) under any Act of Congress providing for the protection of civil rights; (ii) under the Declaratory Judgment Statute, 28 U.S.C. § 2201; (iii) under 29 U.S.C. § 201 et. seq.

3. The Court's supplemental jurisdiction is invoked pursuant to 28 U.S.C. § 1367(a), which confers supplemental jurisdiction over all non-federal claims arising from a common nucleus of operative facts such that they form part of the same case or controversy under Article III of the United States Constitution.

4. Venue is proper in this Court pursuant to 42 U.S.C. § 2000e-5(f)(3), in as much as this judicial district lies in a State in which the unlawful employment practices occurred. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) and (c), in that Defendants maintain offices, conduct business and reside in this district.

### PARTIES

5. Plaintiff Mohammed M. Ahmed is the person who has been aggrieved by Defendants' actions. He is and has been, at all relevant times, a male citizen of the United States and a resident of the State of New York.

6. Defendant T.J. Maxx Corp. ("TJ Maxx") is a private corporation with headquarters located in Massachusetts and local offices located at 3221 Long Beach Road, Oceanside, NY

11572. Upon information and belief T.J. Maxx is a Massachusetts corporation licensed to do business within New York State.

7. Defendant TJX Companies Inc. ("TJX") is a private corporation with headquarters located in Massachusetts and local offices located at 3221 Long Beach Road, Oceanside, NY 11572. Upon information and belief TJX Companies Inc. is a Massachusetts corporation licensed to do business within New York State.

#### FLSA COLLECTIVE ACTION CLAIMS

8. Plaintiff brings Count I, as set forth below, as a collective action pursuant to FLSA § 16(b), 29 U.S.C. § 216(b) on behalf of all Assistant Managers of Defendants TJ Maxx and TJX ("Collective Plaintiffs").

9. Plaintiff defines the FLSA Collective Class as follows:

All Assistant Managers working for Defendants T.J. Maxx Corp. and TJX Companies Inc. three years prior to the date of filing, who have been subject to Defendants T.J. Maxx Corp. and TJX Companies Inc.'s policies of requiring Assistant Managers to perform the duties of hourly employees without proper compensation of overtime required by the FLSA.

10. During the time in question, Plaintiff has been similarly situated to all Assistant Managers of TJ Maxx Corp. and TJX Companies Inc. and has been subjected to illegal terms and conditions of employment, including failure and refusal to compensate Plaintiff and all similarly situated Assistant Managers for overtime hours worked during their employ with Defendants TJ Maxx and TJX.

11. Plaintiff's claims under the FLSA herein are essentially the same as those of all Assistant Managers in Defendants' employ in that it is Defendants' policy to require Assistant Managers as their primary duty to perform the duties of hourly employees without proper compensation of overtime pay.

12. The Collective Plaintiffs under Plaintiff's FLSA claim are readily discernable and ascertainable. All Collective Plaintiffs' contact information is readily available in Defendants' records. Notice of this collective action can be offered by first class mailings to the last known address in Defendants' possession as well as postings within the stores where these individuals are employed.

13. All questions relating to Defendants' violation of the FLSA share the common factual basis with the Plaintiff. No claims under the FLSA relating to the failure to compensate for overtime are specific to Plaintiff and the claims are typical of the violations of the FLSA perpetrated by Defendants.

14. Plaintiff will fairly and adequately represent the interests of the collective class and has no interests conflicting with the class.

15. A collective action is superior to all other methods and is necessary in order to fairly and completely litigate violations of the FLSA.

16. Plaintiff's attorneys are familiar and experienced with collective class action litigation as well as employment and labor law litigation.

17. The public benefits from the case being brought as a collective action as it saves the Court's time and efforts by reducing the multitude of claims to a single litigation. Prosecution of separate actions by individual Collective Plaintiffs creates a risk for varying results based on identical fact patterns as well as disposition of the classes' interests without their knowledge or contribution.

18. The questions of law and fact are nearly identical for all Collective Plaintiffs and therefore proceeding as a collective action is ideal. Without this method, continued violations of the FLSA will undoubtedly continue.

**FRCP RULE 23 CLASS ACTION--NEW YORK STATE CLAIMS**

19. Plaintiff additionally seeks to maintain this action as a class action, pursuant to Fed. R. Civ. P. 23(b)(3), on his own behalf as well as those who are similarly situated, who, during the applicable statutes of limitations, were subjected to violations of the New York Labor Law:

20. Under F.R.C.P. 23(b)(3) Plaintiffs must plead that the class:

- a. Is so numerous that joinder is impracticable;
- b. There are questions of law or fact common to the class which predominate any individual questions of law or fact;
- c. Claims or defenses of the representative are typical of the class;
- d. The representative will fairly and adequately protect the class; and,
- e. A class action is superior to other methods of adjudication.

21. The Class which Plaintiffs seek to define includes:

All Assistant Managers working for Defendants T.J. Maxx Corp. and TJX Companies Inc. six years prior to the date of filing, who have been subject to Defendants' policies of requiring Assistant Managers to perform the duties of hourly employees without proper compensation of overtime required by New York State Labor Law ("Class Plaintiffs").

Numerosity

22. The number of class members protected by the New York State Labor Law and who have suffered under Defendants' violation of the labor law, as set forth herein, are too numerous to join in a single action, necessitating class recognition. Upon information and belief, Defendants employ several Assistant Managers at each store and have at least forty-nine stores in New York State carrying the name "TJ Maxx" and numerous others under subsidiaries which are owned and operated by Defendant TJX.

Common Questions of Law and/or Fact

23. There are questions of law/fact that govern over the claims which are available to each and every Class Plaintiff, including but not limited to the following:

- a. Whether Class Plaintiffs were scheduled to work and/or required to work more than forty hours in a work week;
- b. Whether Class Plaintiffs were compensated for overtime pay pursuant to Defendants' policies;
- c. Whether Defendants failed to pay Class Plaintiffs for the hours worked in excess of forty hours;
- d. Whether Defendants kept accurate records of hours worked by Class Plaintiffs; and,
- e. Whether Defendants have any affirmative defenses for any of these claims.

Typicality of Claims and/or Defenses

24. Plaintiff was employed by Defendants in the same capacity as all Assistant Managers within Defendant TJX's operations. Plaintiff was regularly required to work in excess of forty hours in a week. This was true for all other Assistant Managers.

25. This common treatment included, but is not limited to, failure to pay employees the proper overtime wages

Adequacy

26. The representative party is no longer employed by Defendants as he has been terminated. Plaintiff would properly and adequately represent the current and former employees who have been subjected to the treatment alleged herein. Additionally, Plaintiff's attorney has substantial experience in this field of law.

Superiority

27. Any lawsuit brought by an employee of Defendants would be identical to a suit brought by any other employee for the same violations and separate litigation would cause a risk of inconsistent results. Plaintiff has no facts relating to the class claims that are atypical from those of the class. Upon information and belief, Plaintiff was treated identically to other employees aside from his individual claim for retaliation.

28. Indeed, because Plaintiff is no longer employed by Defendants he will be able to further represent Class Plaintiffs by acting without fear of further retaliation and harassment. Thus, this means of protecting all of Class Plaintiffs' rights is superior to any other method.

29. As and for the Collective Action claims brought pursuant to 29 U.S.C.S. § 216(b), Plaintiff asserts that he was treated in a similar or identical fashion to those individuals currently and formerly employed by Defendants.



PLAINTIFF AHMED'S INDIVIDUAL CLAIMS

30. Mr. Ahmed is a 48 year old male.

31. Mr. Ahmed was hired by Defendants in or around October 17, 2008 as an Assistant Manager. He dedicated a significant period of his life to his store located at 3221 Long Beach Road Oceanside, New York. Mr. Ahmed worked between 60 and 70 hours per week. He was often required to work six days per week. He never received overtime wages for working in excess of 40 hours per week.

32. Further, Defendants showed a complete disregard for Mr. Ahmed's safety. At one point Plaintiff opened the truck to unload it and the boxes fell on top of him. He was out of work for two weeks due to his injury. When he returned Defendants had used all of his sick days to compensate him for his time off. Upon returning the first thing he was told was that he had to unload the truck.

33. If any employee wanted to call in sick they were frightened that they would be terminated for being sick. Even when Mr. Ahmed felt as if he would vomit, he could not use his accumulated sick days to leave and recuperate.

34. On a near daily basis, the store manager asked and expected Mr. Ahmed to perform tasks including cleaning the store, cleaning the bathrooms, unloading the delivery trucks three time per week, stocking the store shelves, and running the register.

35. When Mr. Ahmed requested from the store manager to have his hours reduced, the store manager refused to make any changes.

36. Mr. Ahmed asked the store manager on multiple occasions for overtime wages, but the store manager refused.

37. In response to Mr. Ahmed's complaints about not being properly compensated for working overtime, Defendants retaliated against him.

38. Mr. Ahmed was first written up for the first time shortly after he complained about this illegal practice. There was no basis for the write up and when Mr. Ahmed asked for an explanation, none was given.

39. Two other unjustified write-ups followed soon after. The basis of these writeups was fabricated and further, Mr. Ahmed was not even responsible for the deficiencies of which he was accused.

40. In or about July 4, 2010, in retaliation for Mr. Ahmed's opposition to the unlawful labor practices, the store manager terminated Mr. Ahmed.

#### CLASS/COLLECTIVE ACTION ALLEGATIONS

41. From the onset and throughout his employment, Defendants scheduled Mr. Ahmed to work fifty hours per week. This was standard practice for Defendant TJX stores. Contrary to his schedule which stated that Mr. Ahmed worked fifty hours per week, he was often required to work additional shifts, stay late or come in early.

42. Mr. Ahmed's duties were largely unrelated to the management of the store. He spent a majority of his time cleaning, stocking and running the cash register. Further, the few duties he had in the back of the store consisted almost entirely of providing change for the cash registers.

43. Upon information and belief, well over fifty percent of all of Defendants' Assistant Managers' time was spent doing duties such as cashiering, stocking shelves, cleaning bathrooms, cleaning the store, and unloading trucks.

44. Rather than increase staff or grant overtime to hourly employees in order to assure the proper functioning of a store, upper management required Assistant Managers to work longer hours and fulfill tasks expected of hourly employees.

45. As a result, Assistant Managers began working an excessive amount of overtime hours in order to perform the duties of hourly positions such as cashier, stock handler, and cleaning staff. Plaintiff and other similarly situated Assistant Managers were required to work up to seventy hours a week and/or six days each week.

46. Mr. Ahmed was assigned additional duties outside the scope of his responsibilities as an Assistant Manager. These acts were performed on company time and were not compensated through the legally required overtime wages.

47. This type of forced overtime without pay is common-place within Defendants TJ Maxx and TJX. The potential class/collective Plaintiffs have and continue to work overtime hours without statutorily required compensation.

48. In order to effectuate this scheme and practice, upper management dissuaded employees from asking questions about overtime pay, including Mr. Ahmed and many individuals in the same or similar situation to Mr. Ahmed.

#### **CAUSES OF ACTION**

##### **As and for a First Cause of Action for Violation of Fair Labor Standards Act**

49. The conduct alleged herein violates the Fair Labor Standards Act as Defendants have failed to compensate Plaintiff for overtime hours worked.

50. Plaintiff's requests for relief are set forth below.

**As and for a Second Cause of Action for Violation of  
New York State Labor Law**

51. The conduct alleged herein violates the New York State Labor Law as Defendants have failed to compensate Plaintiff for overtime hours worked and retaliated against Plaintiff after he spoke out against violations of the New York State Labor Law.

52. As a prerequisite, Plaintiff has filed notice with the New York Attorney General.

53. Plaintiff's requests for relief are set forth below.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff demands judgment against Defendants as follows:

1. All damages which Plaintiff and the class have sustained as a result of Defendants' conduct, including back pay, general and special damages for lost compensation and job benefits he would have received but for Defendants' discriminatory and unlawful practices, and for emotional distress, humiliation, embarrassment, and anguish;
2. Front pay to Plaintiff until such time as he can be placed in the same position he would now occupy but for Defendants' practices;
3. Exemplary and punitive damages in an amount commensurate with Defendants' ability and so as to deter future malicious, reckless and/or intentional conduct;
4. Awarding Plaintiff and the class their costs and disbursements incurred in connection with this action, including reasonable attorneys' fees, expert witness fees and other costs;
5. Pre-judgment and post-judgment interest, as provided by law; and

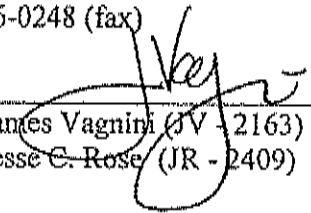
6. Granting Plaintiff and/or the class other and further relief as this Court finds necessary and proper.

Dated: 8/3/10

Respectfully submitted,

Valli Kane & Vagnini, LLP  
Attorneys for Plaintiff  
600 Old Country Road, Suite 207  
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(516) 203-7180  
(516) 706-0248 (fax)

By:

  
James Vagnini (JV - 2163)  
Jesse C. Rose (JR - 2409)

To: The TJX Companies, Inc.  
770 Cochituate Road  
Framingham, MA 01701

TJ Maxx Corp.  
770 Cochituate Road  
Framingham, MA 01701

# Exhibit 2

1  
2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF NEW YORK  
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5 -----X  
6 MOHAMMED M. AHMED,

7 Plaintiff,

8 -against-

Index No.  
10-CV-3609

9 T.J. MAXX CORP., and  
10 THE TJX COMPANIES, INC.

11 Defendant.  
12 -----X

13 C O N F I D E N T I A L

14 DEPOSITION of MOHAMMED M. AHMED, Plaintiff  
15 taken by Defendants, held at the offices of  
16 Littler Mendelson, 290 Broadhollow Road, Suite  
17 305, Melville, New York 11747, on Thursday,  
18 March 3, 2011, commencing at 9:55 a.m., before  
19 Jean Wilm, a Registered Professional Reporter,  
20 Certified LiveNote Reporter and Notary Public  
21 within and for the State of New York.  
22  
23  
24  
25

A P P E A R A N C E S:

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BY: ANDREW J. VOSS, Esq.



1 Ahmed/Confidential

2 about your lawsuit before you filed it?

3 A No, no. After.

4 Q So when you say about your  
5 complaint, are you talking about the lawsuit, or  
6 are you talking about a complaint to someone at  
7 T.J. Maxx?

8 A I was talking to them about the  
9 lawsuit.

10 Q Let's start with Mr. Pena. When did  
11 you speak with Mr. Pena?

12 A I don't exactly remember the date.

13 Q Was it a year ago?

14 A No. It's right after making the  
15 complaint.

16 Q When you say "making the complaint,"  
17 what do you mean?

18 A I mean the lawsuit.

19 Q You started the lawsuit?

20 A Yes.

21 Q Then you spoke with Mr. Pena?

22 A Mr. Pena.

23 Q Was this a telephone call?

24 A It was a telephone call.

25 Q What did you say and what did he

Ahmed/Confidential

say?

A I told him.

MR. ROSE: Objection.

A I told him about the lawsuit, saying like how T.J. Maxx was treating me, meaning like as a manager, I was a store manager -- I mean, assistant manager, I'm sorry, and that we is unloading the truck, we putting stuff on, you know, from the totes to the shelf. We clean the bathrooms. We clean the garbage. We running the registers.

And he said, "You're absolutely right. That's what we're doing."

And then I told him how, you know, we are supposed to work 45 hours. We worked 60 to 70 hours every week, and they call you like if you are scheduled to go to work at 1 o'clock, they call you 10 o'clock to go to the work, and end up working 10 to close, which is 10, 10:30, 11 at night.

And, you know, he say, "You're right," and he was agreed, you know, what we have all been doing -- we all doing the same thing. He said, you know, "You did the right thing."

Ahmed/Confidential

Q Other than saying "you're right" and "you did the right thing," did Mr. Pena, say anything else?

MR. ROSE: Objection.

A No, sir. All he said, "You're right."

Q He said, "You're right"?

A Yes.

Q He also said, "You did the right thing"?

A Yes.

Q Did he say anything else?

A No.

Q Did you have any subsequent conversations with Mr. Pena?

A I'm sorry?

Q Did you have any subsequent conversations with Mr. Pena? Any conversations later?

A No, sir.

Q You indicated you spoke with Carl Williams who was the store manager in Islandia?

MR. MARINO: Did you ever meet with --

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Q Is that the salary you received when you started working as an assistant store manager at T.J. Maxx?

A Yes.

Q Did you receive that salary every week that you worked until it was perhaps raised at some point in your employment?

A Yes.

Q Did you receive that salary regardless of the number of hours that you worked?

A Yes.

Q And that worked out to be an annual salary of \$59,000 per year; is that right?

A Yes, sir.

Q At some point during your employment at T.J. Maxx, did your salary increase?

A Yes.

Q That was after your first year?

A No.

Q When was it increased?

A I don't remember, but it wasn't too long before I got terminated, so ...

Q You were terminated in June of 2010; is that right?

Ahmed/Confidential

71

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A Yes.

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4

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Q And so you were working from November 17, 2008, until June of 2010; is that right?

6

A Yes, sir.

7

8

9

Q Did you apply for work elsewhere at any time during the period of your employment at T.J. Maxx?

10

A I applied to Target.

11

12

Q When did you apply for work at Target?

13

14

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A It was -- I don't remember exact date, but before I get terminated, I tried to work -- you know, tried to find a job different place, because I know at T.J. Maxx, my life was miserable. I was trying to get a job in different place, and I've tried, yes. I applied at Target.

19

20

Q So you applied for work at Target while you were still employed at T.J. Maxx?

21

A Yes, sir.

22

23

Q What job did you apply for at Target?

24

25

A I don't remember the position I applied for. Probably assistant manager or store

Ahmed/Confidential

manager. I don't remember the position.

Q Was that an online application?

A Yes.

Q Did you get any response to the online application?

A No.

Q Now, I understand, based on the records, that you received your raise on April 4<sup>th</sup>, 2010. Does that sound right?

A Yes.

Q Do you remember how much the raise was?

A It was -- I know the final was 62,000, so probably \$3,000, but I'm not sure it's the exact amount, but around there.

Q So whatever that worked out to be in terms of your weekly salary, that was your new weekly salary that you received until the termination of your employment; is that right?

A Yes.

Q And you received that salary regardless of the number of hours you worked?

A Yes.

Q Now, when you were hired as an

Ahmed/Confidential

assistant store manager at T.J. Maxx, you understood that you would not be receiving overtime; is that right?

A As assistant manager, yes.

Q You would not receive overtime, right?

A Yes.

Q Did you have any discussions with Mr. Cabrera or anyone else at the time of your hire regarding the number of hours that you would typically be working?

A Yes.

Q Who did you have a conversation with?

A I asked Mr. Cabrera about it.

Q What did Mr. Cabrera say?

A He said it's 45 hours that we have to work.

Q Is that the typical schedule?

A Yes.

MR. ROSE: Objection.

Q I'm sorry?

A 45-hour schedule, and we are supposed to take an hour break.

Ahmed/Confidential

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Q Did Mr. Cabrera say that during holiday time, you might be working more hours?

A No.

Q Was there any other discussion about hours with Mr. Cabrera?

A No.

Q Did you have any other discussion with anyone else at T.J. Maxx at your hiring about the number of hours that you would be scheduled to work?

A No.

Q Now, I understand that you were hired as assistant store manager, right?

A Yes, sir.

Q Based on the records I understand, at least by reference to Exhibit 3, you started work on November 17, 2008; is that right?

A Yes.

Q Did you report to the Riverhead store for training?

A Yes.

Q Now, I understand that at T.J. Maxx the assistant store managers go through about approximately a five-week training period; is that



Ahmed/Confidential

75

right?

A Yes.

Q Who was responsible for your training at the Riverhead store?

A Mr. Salvo was the store manager at that time.

Q Mr. Salvo?

A Salvo.

Q What kind of relationship did you have with Mr. Salvo as your training manager?

A Well, it was a good relationship as -- he was a good mentor.

Q He was a good mentor?

A Yes.

Q At the end of the training period, did you feel that you understood the managerial expectations at T.J. Maxx?

A Oh, actually, no.

Q You did not feel that you understood that?

A No.

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(Document Bates-stamped

MAXX0002183 through 2267 was marked as  
Defendants' Exhibit 4 for  
identification, as of this date.)

BY MR. VOSS:

Q I am showing you a document we  
marked as Exhibit 4, which are excerpts from the  
ASM training program at T.J. Maxx.

Have you ever seen this before?

A (Perusing document.) Yes.

Q Other than Mr. Salvo, was anyone  
else involved in your training?

A No.

Q Now, I understand that T.J. Maxx  
training involves a certain amount of paperwork  
but also time out on the floor with the store  
manager; is that right?

A Yes.

Q So you would go through certain  
modules, and then you would take tests to  
determine whether you were trained with respect to  
those various modules?

A It's supposed to be done that way,  
but it didn't happen like that.

Ahmed/Confidential

94

1 Q Do you have any reason to believe  
2 that this is wrong, that you were not the only  
3 manager that was working at the store on Sunday,  
4 the week of January 31<sup>st</sup>, 2009?  
5

6 MR. ROSE: Objection.

7 A Again, I don't recall this schedule,  
8 sir.

9 Q You don't recall it?

10 A No, sir.

11 Q So you don't know one way or the  
12 other?

13 A I'm sorry?

14 Q You don't know one way or the other?  
15 You don't know whether you were scheduled or not?

16 A Yes, I don't know.

17 Q Sir, I'll represent to you that  
18 these are most of your schedules that applied  
19 during the period that you were working at  
20 T.J. Maxx, and on all of these weeks, you were  
21 only scheduled five days a week.

22 Is it consistent with your  
23 recollection that you only worked five days a  
24 week?

25 MR. ROSE: Objection.

Ahmed/Confidential

A T.J. Maxx, their schedule is never -- they always change their schedule. They probably write down five days, but they will call you on your days off to come to work and will never write down on the schedule.

As you can see, all this, they always white out it. If you work early, they will change it to late, and if you work late, they change it to morning. So they schedule write down in here. And it's not the same schedule they make two weeks ago. It's always changed. When we ask why schedule change, they say it's subject to be changed.

Q You are saying this schedule is not necessarily accurate?

A It's not accurate, sir.

Q Where it says "L," it means you were scheduled to work the late shift?

A Late shift.

Q Where it says "E," you were scheduled to work early, right?

A Yes, sir.

Q You are saying to the extent this document reflects that you were not scheduled to

Ahmed/Confidential

work on two days a week, that may or may not be true; is that right?

A I'm saying like when it said work early, verbally they will tell you to come 5 in the morning, and then you leave 6 in the evening. When it says come late, they will call you come 10 in the morning and then you leave at 10 at night or 11 at night.

Q We started this conversation talking about opening, and I want to get a better understanding from you, sir, about who was opening on Sundays when you were scheduled to work on Sundays. Did you open, or did someone else open?

MR. ROSE: Objection.

A If scheduled to work on Sunday, of course, I will have to open the store.

Q And you are opening the store by yourself, right?

A Not all the time.

Q Most of the time? Is that right?

A Yes, most of the times, yes.

Q So before you opened up the store to allow customers in, you made a tour of the store to make sure that it was ready for customers;

Ahmed/Confidential

101

1  
2 Q Sir, I'm going to direct your  
3 attention again to the duties and responsibilities  
4 that are listed on page 2197 under opening. Which  
5 of these duties did you not do when you were  
6 responsible for opening the store?

7 MR. ROSE: Objection.

8 A So when I open myself on Sunday, I  
9 couldn't even read almost all of those that we  
10 didn't do, because we do not have time to do this,  
11 how the schedule was set up. I couldn't do review  
12 store-generated markdowns reports and planning  
13 grids. I couldn't check e-mail and voice mail.  
14 We couldn't conduct the morning meetings, review  
15 markdown status/markdown activity reports,  
16 identify the responsibilities of key carrier and  
17 guidelines and policies to adhere to for store  
18 openings.

19 Q You did not do that?

20 A No, sir.

21 Q So you didn't do any of those four  
22 or five things?

23 MR. ROSE: I think he was still in  
24 the middle of answering the question.

25 Q Okay. Go ahead.

Ahmed/Confidential

A Determine payroll projection.

Q You did not do that?

MR. VOSS: He is just reading it.

MR. ROSE: You asked him which ones of the list, so he is reading the list, that he didn't do.

MR. VOSS: These are things that he did not do?

MR. ROSE: Let him answer your question.

A I'm reading it. I'm trying to answer like what I didn't do everything. You want me to continue?

Q I want you to identify all the things on this list that you did not do.

A Yes, I'm reading that one by one I didn't do, even though I'm supposed to do, we didn't do because of the time, how schedule was maintained.

Because as a manager, I have to work on the registers, so that's how the schedule was, me, maybe five other employees, where we have to get seven or ten, so they cut down the hours, cut down the employees. So as the manager, you have

Ahmed/Confidential

to jump on the register right away. So a lot of those things I couldn't do.

Read the closing reports.

Q Read the closing reports, where is that one?

A And review the daily lineup. When you review the daily lineup for adequate coverage, you are told, if you don't have enough, whatever you have, you have to work on. So I did this.

Q So you did review the daily lineup?

A Right.

MR. ROSE: Let him finish answering the question. He is going through the list.

Q Go ahead.

A I did open the controller. I did that. I open registers and set up front line for business.

Review what responsibilities the cleaning service is contracted to perform. I do not know what it mean by this.

Q The store had a cleaning service, right?

MR. ROSE: Let him finish.



Ahmed/Confidential

104

1  
2 A We never had it on Sunday. Nobody  
3 comes in Sunday.

4 Q So the cleaning service only came on  
5 other days?

6 A It comes like once or twice in a  
7 week. I don't remember. Us, as a manager, we  
8 have to clean it. Sunday, my job is to clean the  
9 floor too. Within 15 minutes time, I have to  
10 clean the floor, and then I have to make sure,  
11 bring all the registers from the back and set it  
12 up for the customers. But you get only 15  
13 minutes. And employee are scheduled to come just  
14 on 11 on dot. The store is open at 11 also. It's  
15 Sunday.

16 Q Anything else that you didn't do  
17 that is listed under opening?

18 A I did -- I said most of the things  
19 that I didn't do.

20 Q So I understand, based on your  
21 testimony that what you did do when you opened the  
22 store, is you disarmed the alarm, you opened the  
23 controller, you enabled or opened the registers  
24 and set up the front line, you performed time card  
25 edits from the previous day?

Ahmed/Confidential

134

1  
2 Q Were there other ASMs in your store  
3 who provided performance evaluations to associates  
4 in the store?

5 A I don't know, sir.

6 Q You don't know anything about that?

7 A No.

8 Q If you turn to page 2263, did you  
9 receive training when you were hired at T.J. Maxx  
10 regarding the company's corrective action process?

11 A No. But at the store when I was  
12 working with Janet, she made me to write few  
13 people up saying that -- I don't remember why, but  
14 she was showing that's how you write people up.

15 Q So you received training from  
16 Ms. Sohmer who is the store manager in Commack?

17 A Commack.

18 Q You received training from her about  
19 how to discipline associates?

20 A Yes, I remember I did -- I don't  
21 know how many people. I remember I did write  
22 correction for someone. I do remember that.

23 Q Did you receive any training  
24 regarding the REACH program at T.J. Maxx during  
25 your training period?

Ahmed/Confidential

1

2

A No, sir, I don't remember.

3

4

Q How about regarding the open door policy?

5

A No.

6

Q No training about that?

7

A (Shakes head.)

8

9

Q How about the company's diversity policy?

10

A No.

11

12

Q Did you receive any training regarding Working Smart?

13

A No, sir.

14

15

Q Are you familiar with a program at T.J. Maxx during your tenure called Lead, L-E-A-D?

16

A Lead, what is it?

17

Q It's called lead training, L-E-A-D?

18

A No, sir, I don't remember.

19

Q Doesn't mean anything to you?

20

A No.

21

22

23

Q Now, I understand after your training, you were assigned initially to the Commack store; is that right?

24

A Yes, sir.

25

Q You worked there from January 19,

Ahmed/Confidential

136

2009, to November 9, 2009; is that right?

A Yes.

Q So about ten months or so?

A Yes, about ten months. Yes.

Q Then you worked at the Oceanside store, also T.J. Maxx, from November 9, 2009, until July 1<sup>st</sup>, 2010; is that right?

A Yes, sir.

Q So about eight months, right?

A Yes.

Q And Ms. Sohmer was your store manager in Commack, right?

A Yes, sir.

Q And Ms. --

A Terri.

Q Kolski?

A Terri.

Q What's her last name?

A I can't recall. K-l-o-z, something like that.

Q Klotz, sorry. Ms. Klotz was your store manager for the majority of the time in Oceanside, right?

A Yes, sir.

1 Ahmed/Confidential

2 Q And then there was a short period of  
3 time towards the end of your employment where you  
4 were supervised by Ms. Minutoli, right?

5 A Kathy, yes.

6 Q So you just knew her as Kathy,  
7 right?

8 A Yes.

9 Q Do you know how many square foot the  
10 Commack store was? How large it was?

11 A No, sir.

12 Q Does it make sense that it was about  
13 35,000 square feet? Does that sound right to you?  
14 No idea?

15 A I don't know exact square footage.

16 Q Was it larger than the Oceanside  
17 store?

18 A I think a little bit larger.

19 Q Do you know what the annual revenue  
20 was the year that you worked there in Commack?

21 A No.

22 Q How about in Oceanside?

23 A No.

24 Q No idea about what annual revenue  
25 was generated in the stores?

1 Ahmed/Confidential

2 Q Anything else?

3 A And then I was assigned to a, what  
4 they call it misses department for like the  
5 women's stuff.

6 Q Misses?

7 A Misses.

8 Q Any other departments assigned to  
9 you?

10 A Those are that and on top of this, I  
11 have to do, unload the truck. That was my duty.

12 Q When you say "unload the truck,"  
13 what do you mean?

14 A Meaning that the truck delivery  
15 comes, merchandise comes every twice in a week, so  
16 I have to unload the truck.

17 Q Weren't there associates who worked  
18 in the backroom who unloaded the truck?

19 A There is some associates also.

20 Q And also a backroom coordinator?

21 A Yes.

22 Q So in the back, you had the backroom  
23 coordinator?

24 A Yes.

25 Q And you had, let's see, a pacesetter

Ahmed/Confidential

and a carton cutter, right?

A Yes. There is a few people always, but again the payroll being cut and the people needed in the backroom, they never had the people there. So one of us, either me or Joe or Mr. Phil, one of us has to go and work with the truck every week.

Q So on Tuesdays and Thursdays -- I understand that is when the deliveries occurred; is that right?

A I don't remember which day. It changes, but it's twice in the week.

Q Whenever the truck would arrive in the back office, the backroom, you would have a backroom coordinator, correct?

A Right.

Q And you would have at least two or three associates; is that right?

A That's about right.

Q And then you are saying that you would be back there as an ASM as well, is that what you are saying?

A As one extra employee will be there.

Q Sure. Did you understand that you

Ahmed/Confidential

146

1  
2 were responsible for supervising that process when  
3 you were back there?

4 A No.

5 Q That was not your responsibility?

6 A No.

7 Q Who was responsible for supervising  
8 that process to ensure that it was done properly?

9 A It is coordinator in the backroom.

10 Q And you weren't supervising the  
11 coordinator?

12 A No. We just there as one extra  
13 help.

14 Q So you took direction from the  
15 coordinator?

16 A We took direction from the store  
17 manager saying that's what you are going to be  
18 doing. Actually, as I said, everything happens at  
19 T.J. Maxx what store manager says to everyone.  
20 Even though every department has a coordinator,  
21 assistants, but we do what the store manager tell  
22 us to do. You can't do anything wrong. Then  
23 you're in trouble.

24 Q Did you understand that the  
25 associates and the backroom coordinator in the



Ahmed/Confidential

182

A No.

Q Next bullet point states "Prepares and conducts evaluations for all respective reporting associates and coordinators."

You never did that?

A No.

Q Next bullet point states "Directs merchandising work assignments through the store." Did you do that?

A No.

Q Next bullet point states "Creates an environment that fosters open communication and information sharing among all associates."

Did you do anything as part of your managerial responsibilities as an ASM to create an environment that fostered open communication and information sharing in the store?

MR. ROSE: Objection.

A Again, I was not responsible for any of those things. Only thing I always have to do is the workload that I was given.

Q And the workload that you were given, you are talking about stocking shelves in your departments?

1 Ahmed/Confidential

2 A Stocking shelves in my department.  
3 If my department don't have no totes, then I have  
4 to go work in a different department.

5 Q So stocking shelves in your  
6 department or stocking shelves in another  
7 department?

8 A Another department.

9 Q That's all you did?

10 A Yes, sir.

11 Q The next bullet point states  
12 "Maintains and supports all company values, code  
13 of conduct including, but not limited to, open  
14 door, diversing workplace and maintenance of a  
15 risk-free environment."

16 Did you understand that that was  
17 part of your responsibilities as an ASM?

18 A No, no.

19 Q No, you didn't understand that if an  
20 associate had questions or concerns regarding  
21 workplace conduct, that they should come to you?

22 A No, they have to go to the store  
23 manager.

24 Q No one ever came to you with any  
25 concerns about workplace conduct or harassment or

Ahmed/Confidential

184

anything like that?

A With harassment, one person came to me.

Q Who was that?

A Her name was -- there's two person came to me while I was at Oceanside. One person's name is Melanie and another person name is Andrea. They came to with a harassment case in two different times.

Q What were Melanie's concerns?

A Melanie's concerns, she came to me one day -- I don't remember which day -- and she saying that -- actually, she came with her mother. Melanie came with her mother. It was one Sunday. I was alone.

So one Sunday, she came in because I was ringing at the register, and Melanie came in the door with her mother and we had a line and she wanted to speak to me. And I said, "Okay. Let me take care of this customer and I'll go talk to you."

So I finished with the customers and then I was talking to Melanie. She said she want to speak to me. I said, "Okay. That's fine."

Ahmed/Confidential

326

1  
2 Q Did you raise it on any other  
3 occasion with her?

4 A Each time I stay late, same thing,  
5 it is a retail and they needed you for whatever  
6 hours, you have to stay. You can't get overtime.

7 Q Mr. Ahmed you understood that you  
8 were paid a salary, right?

9 A Yes.

10 Q You weren't paid hourly?

11 A I wasn't paid hourly.

12 Q So when your coordinators stayed  
13 late, they got overtime, if their hours exceeded  
14 48 in a workweek, right?

15 A Yes.

16 Q They didn't get a salary?

17 A They didn't get a salary.

18 Q They got an hourly wage, right?

19 A They are hourly paid, right.

20 Q You received a salary regardless of  
21 the number of hours you worked, right?

22 A Yeah. Well, if you work 60 hours,  
23 70 hours, you get this. But you don't work less  
24 than that.

25 Q You understood you got your salary

Ahmed/Confidential

no matter how many hours you worked, right?

I'm trying to understand why you asked your store manager for overtime.

A Because I was told, I'm going to be working only 45 hours, but I'm working 60, 70 hours. So my concern is, if I work 60, 70 hours constantly and I'm getting the same pay, why I'm not getting more money for more hours, because I'm working more than 45 hours. That's where my concern was.

Q And she said, "No, this is retail, you have to be available"?

A "You have to be available."

Q Did she say anything else?

A No. Walk away.

Q Tell me about when you raised this request for overtime from Ms. Klotz. What did you say and what did she say?

A She said the same thing, "This is retail. You got option: If you want to work for us or you can quit." That was her answers.

Q What did you say to Ms. Klotz?

A I said, "Ms. Terri, I've been -- supposed to work 45 hours and I'm working 60, 70

Ahmed/Confidential

hours every week. You calling me in even on my days off, even for a little thing. You could even wait for me to come next day. And I'm coming all this extra time. Am I going to get paid overtime?"

She said, "No. You are in the wrong business if you are looking for overtime. You have an option: Either you work or you quit." That's what Terri's exact word was.

Q Did you ask to transfer to an hourly position?

A No.

Q Why not?

A I just -- at that time, I don't want to go back an on hourly, because I know it's working with her. Even if you go hourly and employees, how she treat all of them. Terri's Terri. She never change. Working with her has been, you know, I just -- I never tell her that I want to go back to an hourly. I never did.

Q If you look at page 9 of the complaint, it states, "In response to Mr. Ahmed's complaints about not being properly compensated for working overtime, defendants retaliated

Ahmed/Confidential

1  
2 against him." Who retaliated against you?

3 A There was her, Ms. Terri.

4 Q Ms. Klotz?

5 A Ms. Klotz, yes.

6 Q She retaliated against you?

7 A I felt. I felt that way.

8 Q How did she retaliate against you?

9 A She constantly changed my schedule,  
10 and then she calling me for little things. Like  
11 one thing, if she could wait for me to go  
12 tomorrow, she know I'm scheduled to go tomorrow,  
13 Tuesday's my day off, if something she find wrong,  
14 she is going to call me and say, "Come to the  
15 store."

16 I said, "Why? What is the problem?"

17 "Well, that's not -- I want to speak  
18 to you."

19 "Can you wait until tomorrow? I'm  
20 scheduled to come to work tomorrow."

21 She said, "No, you have to come  
22 right now. Terri, I live in North Babylon. To go  
23 from North Babylon to Oceanside, it's a little  
24 far."

25 She made me to do those things

# C E R T I F I C A T E

Before me, this day, personally appeared  
MOHAMMED M. AHMED, who, being duly sworn, states  
that the foregoing transcript of his  
Deposition, taken in the matter, on the date, and  
at the time and place set out on the title page  
hereof, constitutes a true and accurate transcript  
of said deposition.

SUBSCRIBED and SWORN to before me this 25<sup>th</sup>  
day of April, 2011, in the  
jurisdiction aforesaid.

Sam Lytle  
Notary Public

FINK & CARNEY  
REPORTING AND VIDEO SERVICES  
39 West 37th Street, 6th Floor, New York, N.Y. 10018 (212) 869-1500



# Exhibit 3

1

1

2 UNITED STATES DISTRICT COURT

3 EASTERN DISTRICT OF NEW YORK

4 -----X

5 MOHAMMED A. AHMED,

6 Plaintiff,

7 -against- 10-CV-3609

8 T.J. MAXX CORP., and TJX COMPANIES, INC.

9 Defendants.

10 -----X

11

12 ORIGINAL

600 Old Country Road  
Garden City, New York

13

January 30, 2012  
2:20 p.m.

14

15

16 DEPOSITION of ANGELINA DUNSCOMB,  
17 the witness herein, pursuant to Federal  
18 Rules, held before Denise A. Caruso, a  
19 Notary Public of the State of New York,  
20 at the above-stated time and place.

21

22

23

24

25

1

2     A P P E A R A N C E S:

3

4

5     VALLI KANE AND VAGNINI, LLP.

6             Attorneys for the Plaintiff

7             600 Old Country Road

8             Garden City, New York 11530

9     BY:       DEBORAH RUBIN, ESQ.

10

11

12

13     LITTLER MENDELSON, P.C.

14             Attorneys for the Defendants

15             290 Broadhollow Road

16             Melville, New York 11747

17     BY:       JOHN T. BAUER, ESQ.

18

19

20

21

22

23

24

25

1 A. Durscomb

2 A. Opening and closing the  
3 buildings and helping them redo an area in the  
4 store; resetting the departments.

5 Q. Was that in all the stores you  
6 went to help out at?

7 A. No, the Commack store is where I  
8 just went to help reset the department. The  
9 Massapequa and Selden store I helped open and  
10 close the building, they were down a manager.

11 Q. What else did you have to do  
12 when you opened and closed those stores?

13 A. Managed the processes of the  
14 building, make sure everybody is doing their  
15 job. If there is a customer complaint, handle  
16 the customer complaint. Make sure the break and  
17 schedules were done properly. Just making sure  
18 everybody was doing their job.

19 Q. What's involved in resetting  
20 departments?

21 A. Sometimes you have to move  
22 fixtures around and place them in areas, move  
23 merchandise from one section to another section.

24 Q. Were you involved in physically  
25 moving the merchandise?

1 A. Dunscomb

2 A. Yes.

3 Q. Do you remember when you went to  
4 the Commack store to help with the reset?

5 A. No, I don't.

6 Q. Do you know if it was when you  
7 were merchandise manager, assistant manager?

8 A. I was the merch manager.

9 Q. Is it fine if I refer to it as  
10 merchandising ASM?

11 A. That's fine.

12 Q. And operations ASM?

13 A. Yes.

14 Q. Who sent you to these stores?

15 A. Usually it would be coming from  
16 the district manager, and they would ask the  
17 store manager and then follow the chain of  
18 command.

19 Q. When would you find out that you  
20 were needed to help out at another store?

21 A. Probably about a week before you  
22 had to go.

23 Q. When you were working as a  
24 merchandise ASM, how many hours did you work per  
25 week?

1 A. Dunscomb

2 A. It varied. Because you have a  
3 late night, if you worked a weekend, you could  
4 work anywhere between forty to forty-eight hours  
5 a week.

6 Q. How many days per week would you  
7 work?

8 A. Five.

9 Q. This is when you were a  
10 merchandise ASM?

11 A. Yes.

12 Q. Were there other assistant  
13 managers at the Oceanside store?

14 A. Yes.

15 Q. Who were they?

16 A. They came from other stores.

17 Are you asking for the ones that went to help or  
18 the ones that are in the building?

19 Q. The ones that are in the  
20 Oceanside store as their store, where they are  
21 scheduled to work?

22 A. That went to help?

23 Q. No.

24 A. I'm misunderstanding.

25 Q. You worked at the Oceanside

1 A. Dunscomb

2 store when you were a merchandise ASM?

3 A. I thought you said Commack.

4 Q. Were there other assistant  
5 managers at the store when you were a  
6 merchandise ASM?

7 A. There was a staff of three then  
8 the store manager.

9 Q. Who were the three ASMs?

10 A. At the time, it was myself, it  
11 was Moe and Reynaldo then Kathy -- Miss Klotz,  
12 she was the store manager at the time, but then  
13 the regime changed.

14 MR. BAUER: The question was  
15 assistant store managers?

16 MS. RUBIN: Yes.

17 A. Those are the three; Mohammed,  
18 myself and Reynaldo.

19 Q. Then, so the store managers, it  
20 was Miss Klotz first?

21 A. Miss Klotz first.

22 Q. Is that Teresa Klotz?

23 A. Yes.

24 Q. How long was she the store  
25 manager for, do you know?

21

1 A. Dunscomb

2 Q. And now it's Betty Atz?

3 A. Yes.

4 Q. Did you apply for the position  
5 of merchandise ASM?

6 A. When I first applied for the job  
7 for the company?

8 Q. Yes.

9 A. Yes.

10 Q. Was that a paper application?

11 A. It was online.

12 Q. Did you have an interview?

13 A. Yes.

14 Q. Who interviewed you?

15 A. Armando Cabrera.

16 Q. Were you told about the job  
17 duties --

18 A. Yes.

19 Q. Let me finish my question.

20 A. Sorry.

21 Q. Were you told about the job  
22 duties of a merchandise ASM during the  
23 interview?

24 A. Yes.

25 Q. Do you remember what he told



1 A. Dunscomb

2 you?

3 A. He told me that you would have  
4 to open and close the building, he told me  
5 registers we were on the same level when I  
6 worked for Linens and Things, the type of  
7 registers and how to close them. He told me  
8 about managing tasks for associates. He told me  
9 about different levels of stores like where  
10 they're moving stuff around and at different  
11 times of the season.

12 I can't remember everything, but  
13 that's basically the gist of it.

14 Q. When you were a merchandise ASM,  
15 did you ever receive overtime?

16 A. No.

17 Q. Throughout your employment with  
18 T.J. Maxx, have you ever received overtime?

19 A. No.

20 Q. When you were hired, did you  
21 receive training?

22 A. Yes.

23 Q. Was the training specific for  
24 assistant store managers?

25 A. Yes.

1 A. Dunscomb

2 Q. What did the training involve?

3 A. It was a five-week training  
4 program in another store. You had a binder with  
5 all the different things that you had to learn.  
6 Every day you would go through the binder and do  
7 that function in the store; working with the  
8 store manager of that building.

9 Then, you would have to take the  
10 test, skills test. After the first week program  
11 and everything was signed off, then you would  
12 get put into the store that you were hired for.

13 Q. How long was the training each  
14 day?

15 A. Well, you worked a full shift,  
16 which was like an eight-hour day.

17 Q. Where was the training?

18 A. My training?

19 Q. Yes.

20 A. Riverhead.

21 Q. There was someone leading the  
22 training?

23 A. The store manager of that store.

24 Q. Who was that?

25 A. His name was Larry Wade.

1 A. Dunscomb

2 Q. Larry Wade?

3 A. Yes.

4 Q. When you took the test at the  
5 end of the training, did you have to hand it in?

6 A. It was done on the computer.

7 Q. Okay. Were there other  
8 assistant managers at the training?

9 A. I don't think there was.

10 Q. Then when you were assigned to  
11 Oceanside, did you have additional training at  
12 Oceanside?

13 A. No.

14 Q. As a merchandise ASM, did you  
15 have an office?

16 A. We all shared the same office.

17 Q. Who is we?

18 A. The assistant managers.

19 Q. Did you all share the same desk?

20 A. Well, it's hard to say, the desk  
21 was like (indicating) all the way around the  
22 wall, so we all had a spot.

23 Q. Was there a computer in the  
24 office?

25 A. Yes.

1 A. Dunscomb

2 Q. How many computers?

3 A. Two.

4 Q. Was the store manager also in  
5 that office?

6 A. Yes.

7 Q. Was one computer specifically  
8 designated to the store manager?

9 A. Not necessarily.

10 Q. So you could you use --

11 A. You could use either one.

12 Q. As a merchandise ASM, how much  
13 time a week would you spend in the office?

14 MR. BAUER: You are talking  
15 about on average?

16 Q. On average, if you know.

17 A. I don't know, it can vary from  
18 day to day. I mean, if you have to go and do  
19 e-mail, definitely have to read e-mail. Day to  
20 day, it could be anywhere between an hour to two  
21 hours.

22 Q. That's while the store is open?

23 A. Well, you get to the store  
24 before it's open.

25 Q. Would you spend most of the

1 A. Dunscomb

2 office time in the office before the store  
3 opened?

4 A. Before it opens.

5 Q. What kind of work do you do in  
6 the office as a merchandise ASM?

7 A. You would do time and attendance  
8 to make sure the time cards were all inputted  
9 properly. If you are doing markdowns, you are  
10 looking at the markdown schedule and see what  
11 department has to be done. Reading e-mail, if  
12 anything is important that needs to be done  
13 right away. I think that's about it.

14 Q. Who would you get e-mails from?

15 A. You can get an e-mail from your  
16 district manager, you can get e-mails from the  
17 company, if there is something that has to be  
18 pulled from the shelf, from the home office,  
19 someone is looking to help a customer, looking  
20 to see if you have that item in your store,  
21 maybe you can help them out.

22 Truck schedules coming in from  
23 the truck DOC. I'm trying to think what else.  
24 Letters from, you know, e-mails from, um, the  
25 home office, your district secretary sends you

1 A. Dunscomb

2 e-mails about certain things that have to be  
3 sent in and out at a certain time, certain  
4 things getting done on a certain day.

5 Q. When you were a merchandise  
6 assistant store manager, how often would you get  
7 e-mail from the district manager's secretary?

8 A. She sends things out almost  
9 every day to remind you that certain things have  
10 to be done.

11 Q. Would you also get daily e-mails  
12 from the company?

13 A. Yes.

14 Q. Did you have an individualized  
15 e-mail address when working as a merchandise  
16 ASM?

17 A. We all have the same e-mail  
18 address as merch, merch or ops, we are all in  
19 the same e-mail.

20 Q. You share that e-mail?

21 A. We all share that.

22 Q. Does the store manager have an  
23 individualized e-mail address?

24 A. Yes.

25 Q. Does the store manager ever send

1 A. Dunscomb

2 you e-mails?

3 A. No.

4 MR. BAUER: Objection to form.

5 What?

6 A. No. We are in the same  
7 building. We have a com logbook for that.

8 Q. What is that?

9 A. It's a com logbook. It's a  
10 communications logbook, something important gets  
11 written in that to let other people who aren't  
12 in the building know what's going on.

13 Q. Who can write in the com  
14 logbook?

15 A. All the assistant managers and  
16 the store manager.

17 Q. Are you familiar with the term  
18 key carrier?

19 A. Yes.

20 Q. What is it?

21 A. The key carrier is an associate  
22 that is a step up from the coordinator, she's  
23 able to open and close the building on certain  
24 days when needed. She takes -- steps into the  
25 manager's shoes, so to speak, to run the whole

1 A. Dunscomb

2 Inputting people's days off in the schedule,  
3 because they have to go in at a certain time  
4 before the next schedule rolls out.

5 Q. What were the store hours for  
6 the Oceanside store?

7 A. What do you mean?

8 Q. When the store was opened?

9 A. 9:30 to 9:30, Monday through  
10 Saturday; 11:00 to 8:00 on Sunday.

11 Q. The Riverhead store hours?

12 A. Same hours.

13 Q. When you are opening the store  
14 as a merchandise ASM, what time would you have  
15 to get to the store?

16 A. We open the building at 7:00  
17 a.m.

18 Q. A typical day for you would end  
19 at what time?

20 A. From 7:00 a.m, it would be 5:00.

21 Q. If you were closing the  
22 building, what time would you come to the store?

23 A. In Oceanside, I was there at  
24 12:30 until about a quarter to ten.

25 Q. For Riverhead, if you were



1 A. Dunscomb

2 opening, when would you arrive?

3 A. One to a quarter to ten; 1:00  
4 p.m. to a quarter to ten.

5 Q. That is if you are closing a  
6 store, right?

7 A. That is if I'm closing a store.

8 Q. What if you are opening?

9 A. Seven to 5:00.

10 Q. You stayed past 5:00 on days  
11 that you opened?

12 A. Yes.

13 Q. How often?

14 A. Um, three times a week, through  
15 my own accord though.

16 Q. Have you stayed past 9:45?

17 A. Yes.

18 Q. How often?

19 A. Maybe three times a week,  
20 cleaning the store.

21 Q. You'll take the time to clean  
22 the store?

23 A. Yes.

24 Q. What's involved in that?

25 A. Just making sure the merchandise

1 A. Dunscomb

2 is presentable at the time for opening, things  
3 are hung up, put away neatly, nothing is  
4 disheveled. Registers get closed down and put  
5 away, money gets put into the safe, locked away.

6 I have to perform the closing  
7 through the system, make sure all the registers  
8 closed on time, print the sales report.

9 Q. Would you say you've stayed a  
10 little bit past 5:00 three times a week  
11 throughout your employment when you are opening  
12 the store?

13 A. Not every week I've stayed. It  
14 depends on how the condition of the store is.

15 Q. What are productivity sheets?

16 A. It's, um, the truck that comes  
17 in and out comes three times a week, and there's  
18 a standard on how we take that truck in and how  
19 many boxes are taken in an hour, just processing  
20 it to the floor, that has to be filled out.  
21 It's another tool I use to make sure everybody  
22 is functioning the way they should be  
23 functioning and moving the merchandise to the  
24 standards.

25 Q. You fill out the sheet?

1 A. Dunscomb

2 A. I fill out the sheet.

3 Q. Where does the sheet come from?

4 A. It was just a step that we were  
5 taught to do, just another tool to make sure  
6 merchandise gets pulled out of the stockroom on  
7 time instead of sitting stagnant there.

8 Q. Who determines your work  
9 schedule?

10 A. I never thought of that. I  
11 determine what the day is on my own or what has  
12 to be done, assessing the building when I come  
13 in in the morning, see whether we are in  
14 markdown mode or a truck day. If it is a truck  
15 day, we prepare for that truck to come in as  
16 soon as we walk in the building.

17 8:00 is when I kind of set the  
18 standard to come in and bring that truck in.

19 MR. BAUER: I think she was  
20 talking about who determines what days  
21 of the week you work?

22 MS. RUBIN: I was.

23 A. She said what determines what I  
24 do for the day.

25 Q. I said your work schedule, that

1 A. Dunscomb

2 could be interpreted differently. It's okay.

3 A. Who does my schedule, the store  
4 manager.

5 Q. How often are those schedules  
6 made?

7 A. They are done in a month.

8 Q. So once a schedule --

9 A. Once a month the schedule is up.

10 Q. Is that the same for the  
11 Oceanside store and the Riverhead store?

12 A. Yes.

13 Q. The store manager always made  
14 the schedule?

15 A. Yes.

16 Q. Who makes the schedule for the  
17 associates?

18 A. The assistant manager does, um,  
19 depending on who's in the building, but it's  
20 solely responsible for the ops manager to do it.  
21 If I'm on vacation, every other one of the  
22 managers have the capability to do the schedule  
23 as well as I do.

24 Q. So as an ops ASM you've made the  
25 associates schedule?

1 A. Dunscomb

2 A. Yes.

3 Q. What's involved in making the  
4 schedule?

5 A. Well, we have a system called  
6 Kronos right now. On Monday I would go in and  
7 make sure everybody's days off for that week  
8 that we are doing is set in, and preset certain  
9 -- like the backroom, certain hours for them.

10 Then, on Tuesday it optimizes  
11 and it pops everybody's schedule in according to  
12 their availability and what is needed for the  
13 business, and then I go in and I look and see  
14 what unscheduled shifts need to be filled and  
15 try to fill those other associates into those  
16 positions.

17 Q. Now, if you are not able to make  
18 it into work on a day that you are scheduled to  
19 work, is there a certain protocol that you have  
20 to follow?

21 A. Yes.

22 Q. What is that?

23 A. We have to let the district  
24 manager know and the store manager know that we  
25 can't make it into work.

37

1 A. Dunscomb

2 Q. Is that the case for Oceanside  
3 and Riverhead?

4 A. Yes.

5 Q. Have you ever been called in on  
6 a day that you were not scheduled to work?

7 A. Yes.

8 Q. How often is that?

9 A. Maybe one time.

10 Q. Okay. You were able to go in?

11 A. Yes.

12 Q. When you were hired, were you  
13 told how many hours you were expected to work?

14 A. Yes.

15 Q. What were you told?

16 A. Forty-eight hours.

17 Q. Per week?

18 A. Yes.

19 Q. Who told you that?

20 A. Armando Cabrera.

21 Q. Have you ever complained about  
22 the hours you work?

23 A. No.

24 Q. Have you heard other assistant  
25 managers complaining about their hours?

1 A. Dunscomb

2 A. I don't remember anybody  
3 complaining, no, I don't remember anybody  
4 complaining.

5 Q. Okay. So, when you open the  
6 store, can you walk me through what you do --

7 A. Sure.

8 Q. -- as a merchandise assistant  
9 manager?

10 A. It would be the same for  
11 everybody.

12 Q. Is it the same for merchandise  
13 and operations?

14 A. Oh, yeah.

15 Q. Can you tell me what you do?

16 A. When you walk into the building,  
17 you have to walk into the building with an  
18 associate, you can't walk in there by yourself.  
19 So you walk into the building, you have to  
20 de-arm the building. Once you de-arm the  
21 building, put your stuff down. Usually I would  
22 read what is in the com logbook if I wasn't in  
23 the building the night before or the day before  
24 to catch up on something that might have to be  
25 done right away.

1 A. Dunscomb

2 Q. Would you say you do it once a  
3 week?

4 A. Running merchandise, I can say I  
5 do it almost every day, but I don't do it on a  
6 daily basis. I never spend the whole day doing  
7 it, I have other things I'm doing.

8 Q. How much time per day do you  
9 think you spend running merchandise?

10 MR. BAUER: As a merchandise ASM  
11 or an ops ASM?

12 MS. RUBIN: She said the duties  
13 were the same.

14 MR. BAUER: On opening she said  
15 they were the same and then you said  
16 once the store opens, then you get into  
17 a whole line of questioning.

18 MS. RUBIN: We can distinguish.

19 Q. As a merchandise ASM?

20 A. As a merchandise ASM, it's part  
21 of your job to make sure merchandise is getting  
22 run out. If you have to do it, as well along  
23 side someone, then yes, you do it, it's part of  
24 your job.

25 Q. How much time per day would you



1 A. Dunscomb

2 spend running merchandise as a merchandise ASM?

3 A. Probably maybe forty percent of  
4 the day.

5 Q. As an operations ASM?

6 A. Maybe twenty percent of the day.

7 Q. Have you seen other assistant  
8 managers running merchandise?

9 A. Sure.

10 Q. Similar percentages?

11 A. Yes.

12 Q. What else do you do once the  
13 store is now open?

14 A. Now it's a coaching thing,  
15 making sure that associates are doing the  
16 functions of their job properly and doing the  
17 best methods, procedures, the ringing  
18 procedures, make sure everything is getting done  
19 the proper way. If there is a new associate,  
20 you are coaching that associate on how the job  
21 should be done. It's basically coaching and  
22 making sure the whole scope of the store is  
23 being run properly.

24 Q. Have you ever run the register  
25 as a merchandise ASM?

1 A. Dunscomb

2 A. Yes.

3 Q. How often?

4 A. Not too often, you jump in and  
5 just ring to get the line going so the customer  
6 is happy. If there is a long line and they are  
7 starting to complain, you want to move the line  
8 faster.

9 Q. Would you say you do that on a  
10 daily basis as a merchandise ASM?

11 A. Jumping in every now and then,  
12 sure.

13 Q. What about as an operations ASM?

14 A. If I had to jump in on a  
15 register, yes.

16 Q. Daily?

17 A. I don't do it as much as an ops  
18 manager, I have a bigger staff to take care of  
19 that.

20 Q. Have you heard of door to floor?

21 A. Yes.

22 Q. What is that?

23 A. Door to floor is how we take our  
24 truck in. It's door to floor in two hours, the  
25 whole entire truck should come in and out to the

1 A. Dunscomb

2 floor.

3 Q. In two hours?

4 A. In two hours.

5 Q. Are you able to do that?

6 A. Sometimes no, sometimes yes.

7 Q. As both a merchandise ASM and an  
8 operations ASM?

9 A. Yes.

10 Q. As a merchandise ASM, what is  
11 your involvement in the door to floor procedure?

12 A. Making sure the product is  
13 getting run out to the floor the way it should  
14 be on the floor; tagged and centered and  
15 heatered and all the things that have to go with  
16 it.

17 As an ops manager, I'm actually  
18 more involved in the process of the truck; the  
19 way it comes in and how the girls are doing  
20 everything.

21 Q. As a merchandise ASM, do you  
22 assist in getting --

23 MR. BAUER: Are you are talking  
24 in a present tense? You said ops or  
25 merchandise?

1 A. Dunscomb

2 Q. As a merchandise ASM, were you  
3 involved in getting merchandise out onto the  
4 floor?

5 A. Yes.

6 Q. How?

7 A. Moving the merchandise out,  
8 making sure there's an associate that has to  
9 take care of it. If there is not product to get  
10 out so we can do the business we need to do  
11 then, yes, I would put it out.

12 Q. How often would you put it out?

13 A. I don't know, about more than  
14 half of the time when I was -- fifty percent.  
15 I'm still doing it, I mean, moving the  
16 merchandise out is for the better of the  
17 business.

18 Q. It's an important task?

19 A. Yes, it is.

20 Q. You have to tag the merchandise?

21 A. The girls in the back tag it.

22 Q. You are not involved in that?

23 A. No.

24 Q. As a merchandise ASM, you were  
25 not involved?

1 A. Dunscomb

2 A. Yes, if it was at the register  
3 and I was taking merchandise back that needed to  
4 be tagged, yes. You don't put it back on the  
5 floor unless it's the right way.

6 Q. How long did it take to unload  
7 the truck as a merchandise ASM?

8 A. It should take about an hour.

9 Q. Is that how long it took?

10 A. Sometimes two, depending on the  
11 load, how big the load was.

12 Q. You would get boxes on the  
13 truck?

14 A. Yes.

15 Q. How many boxes at the Oceanside  
16 store?

17 A. It varied. It varies anywhere  
18 from three hundred boxes to six hundred boxes.  
19 It depends on how they sent the truck out from  
20 the truck DC.

21 Q. How many hours would it take to  
22 get everything out onto the floor as a  
23 merchandise ASM?

24 A. I don't know. Maybe an hour,  
25 two hours.

1 A. Dunscomb

2 Q. So what is your involvement with  
3 the door to floor as an ops ASM?

4 A. I actually make sure the process  
5 of the door to floor is being done properly and  
6 the right amount of people are in the right spot  
7 and taking less steps in doing what needs to be  
8 done in their station.

9 Q. Do you ever run merchandise out  
10 to the floor as an ops ASM?

11 A. Yes.

12 Q. How often?

13 A. I don't know; one or two times  
14 out of the week.

15 Q. Are there more associates  
16 scheduled to work on truck days than non-truck  
17 days?

18 A. As far as like, um, taking the  
19 truck in?

20 Q. Yes.

21 A. Yes.

22 Q. How many more?

23 A. How many more are scheduled for  
24 the truck?

25 Q. For the truck, yes.

1 A. Dunscomb

2 no, you don't have to use the guidelines.

3 Q. What happens after the  
4 interview?

5 A. Then you have to do a reference  
6 check, and then if the references check out, an  
7 associate is the right mix, then you call them  
8 -- you can call them in for an orientation.

9 Q. Do you have to discuss the  
10 applicant with the store manager?

11 MR. BAUER: Objection to form.

12 You can answer.

13 A. Not really, you don't have to  
14 ask her. Well, the store manager, you could, I  
15 mean, if you are uncomfortable with making that  
16 decision yourself, then you can team up with the  
17 store manager and discuss it and see what the  
18 needs are, you know, whether we need that  
19 person.

20 Q. Can you hire someone without any  
21 additional approval?

22 A. Yes.

23 Q. The district manager does not  
24 have to approve the hiring?

25 A. The only, um, approval that you

1 A. Dunscomb

2 need from the district manager is if there is an  
3 assistant manager, that would be the store  
4 manager that does that, um, I don't hire  
5 assistant store managers. A coordinator you  
6 have to marry up with the district manager, if  
7 there is a need for the coordinator. If there  
8 is no need for the coordinator, then you  
9 wouldn't even hire a coordinator.

10 MS. RUBIN: Quick break. Couple  
11 of minutes.

12 (Recess taken.)

13 MS. RUBIN: Back on the record.

14 Q. As an ops ASM, what is your  
15 involvement in interviewing?

16 A. The same as the assistant. Spot  
17 interviewing, and if they like them, bring them  
18 in and do all the interviewing and the reference  
19 check and the orientation and all that.

20 Q. As a merchandise ASM, were you  
21 involved in providing training to associates?

22 A. Yes.

23 Q. How?

24 A. It depends what job they were  
25 doing, what they were learning. If it was a



1 A. Dunscomb

2 cashier, you train them on how the ringing  
3 procedures were and the steps to make it  
4 efficient and letting them -- watching them  
5 train and doing the skills testing that was  
6 involved in that job function.

7 When they were on the register,  
8 you just sat back and made sure they were doing  
9 the proper procedure. If there was something  
10 they did wrong, then you correct that procedure.

11 Q. Is there any formal training for  
12 associates?

13 A. Like?

14 Q. Like a classroom setting or --

15 A. The orientation is, how I do it  
16 is like a classroom because I bring them in,  
17 they  
18 do -- I explain what the whole scope of the  
19 company is, what their job is. They fill out  
20 the paperwork, we do a tour of the store, make  
21 sure that, um, they know where everything is in  
22 the store.

23 Then I team them up with someone  
24 like a buddy, where I'm going to place them, to  
25 help learn the abilities of that area for maybe

1 A. Dunscomb

2 look like?

3 MR. BAUER: Objection to form.

4 She can answer it.

5 A. The end caps, sometimes they  
6 tell you, if there's a holiday, like Valentine's  
7 Day is coming up, feature Valentine's Day on an  
8 end cap. It's not a specific this is what goes  
9 on each of the ends of the end caps, you are  
10 able to take Valentine's Day and put it on the  
11 end cap.

12 If it is Christmas, sometimes  
13 most of all your end caps will have Christmas on  
14 it, but it will be to what is actually in the  
15 run, so to speak. Like the towel aisle, coming  
16 off the end of the we will have Christmas  
17 towels.

18 Q. Do you discuss the end caps and  
19 how they will be set up with the other assistant  
20 managers?

21 A. Sometimes we like to talk to  
22 each other. Sometimes you bounce an idea off of  
23 someone to see what they are thinking and what  
24 you are thinking, and maybe the two come to a  
25 median and come together with something that

1 A. Dunscomb

2 looks nice.

3 Q. When you were a merchandising  
4 ASM, was the store manager involved in setting  
5 up the end caps?

6 A. Sometimes.

7 Q. Have you ever been told by the  
8 store manager that they didn't like how you set  
9 something up?

10 A. No.

11 Q. Have you ever had to clean the  
12 store?

13 A. Cleaning in what way?

14 Q. Mop, sweep?

15 A. Yes.

16 Q. At Oceanside?

17 A. Yes.

18 Q. At Riverhead?

19 A. Yes.

20 Q. When you visited other stores?

21 A. No.

22 Q. What kind of cleaning have you  
23 done at Oceanside?

24 A. If somebody spills something on  
25 the floor you have to go and clean it up, you

1 A. Dunscomb

2 don't want anybody to get hurt. I've cleaned  
3 the bathrooms. I live kind of far from the  
4 store so I like to have a clean bathroom. If  
5 someone makes a mess, you want to make sure that  
6 the other customers aren't seeing a dirty  
7 bathroom, I've done it. I've cleaned the break  
8 room because I have to eat in it and I want to  
9 eat in a clean place. Cleaned up the registers,  
10 you know, just hangers and stuff put away so it  
11 is not messy. You want to give a better  
12 appearance to customers than having them look at  
13 a dirty counter. I've done those things in  
14 Riverhead, too.

15 Q. When you were at Oceanside, did  
16 you take breaks?

17 A. Yes.

18 Q. How often?

19 A. Every day I took a break.

20 Q. How long was your break?

21 A. An hour.

22 Q. Is that a lunch hour?

23 A. That was my lunch hour.

24 Q. At Riverhead, do you take  
25 breaks?

1 A. Dunscomb

2 A. Yes.

3 Q. Also an hour?

4 A. Uh-huh.

5 THE REPORTER: Yes or no?

6 THE WITNESS: Yes, I'm sorry.

7 Q. Do you take an hour every day  
8 that you are at work?

9 A. Yes.

10 Q. At Oceanside as well?

11 A. Yes.

12 Q. When you were working at  
13 Oceanside, did you ever bring work home with  
14 you?

15 A. Sometimes.

16 Q. What kind of work did you bring  
17 home?

18 A. The um, maybe the e-pack to read  
19 up, like if we were doing the Christmas things,  
20 just to plan ahead, what had to be done.

21 Q. You said e-pack?

22 A. Yes, e-pack, it's what the  
23 company gives out every week of upcoming things  
24 that are going to be done. It's the information  
25 guide comes out every week.

1 A. Dunscomb

2 you know, moving racks and stuff.

3 Q. Was there already a men's gift  
4 area in the store?

5 A. It's the holiday, you get more  
6 of a product coming in for the men's gifts for  
7 Christmas so you get more of an area you had to  
8 fill.

9 Q. It wasn't yet filled?

10 A. No, it wasn't yet put in place  
11 for the holiday, he made a suggestion on what  
12 area of the store we were going to house the  
13 men's gift area for the holiday.

14 Q. Is that where the men's gift  
15 area for the holiday ended up being housed?

16 A. Yes.

17 Q. Anything else happen when you  
18 went around with the district manager?

19 A. No, he just talked about sales  
20 and a pat on the back on different departments  
21 the way they looked, that's about it.

22 Q. Riverhead, does the district  
23 manager visit the store?

24 A. Yes.

25 Q. How often?

1 A. Dunscomb

2 A. She comes about once a month.

3 Q. How long are her visits?

4 A. Probably about three hours.

5 Q. Is the store manager always  
6 there when she visits?

7 A. Yes -- no, I'm sorry. She came  
8 once without her, she's was on vacation.

9 Q. What does the district manager  
10 in Riverhead do on her visits?

11 A. She walks the floor and checks  
12 what areas look like and what is working and  
13 what is not working and makes her suggestions on  
14 where we should put certain things.

15 Q. You say we, are you referring to  
16 the other assistant managers?

17 A. Yes.

18 Q. And the store manager?

19 A. Yes.

20 Q. Do you follow those suggestions?

21 A. Not necessarily so. If I can  
22 prove otherwise a better location or a better  
23 decision, then I can do that.

24 Q. Is that during a visit or would  
25 you do that after the visit?

1 A. Dunscomb

2 A. During the visit we would talk  
3 about it, but -- and that's how I would get what  
4 I was trying to get across. Sometimes she's not  
5 there and we are looking at the numbers in the  
6 reports and said we should do this and we do it  
7 ahead of time, then when she gets there, then we  
8 show her.

9 Q. Has she ever been unhappy with  
10 how you set up the store?

11 A. No.

12 Q. Other than the district manager,  
13 have any other employees from T.J. Maxx come  
14 into the Riverhead store to visit?

15 A. Regular associates or higher up  
16 in the district?

17 Q. Higher up than the district  
18 manager?

19 A. Yes.

20 Q. Who?

21 A. Celine.

22 Q. Who is that?

23 A. She's the VP of the company.

24 Q. How often does she come in?

25 A. I've only -- in the Riverhead



1 A. Dunscomb

2 store, I've only seen her once.

3 Q. Have you heard from other  
4 employees in the Riverhead store that she comes  
5 in more than that?

6 A. No.

7 Q. When you were -- any other  
8 higher-ups come into the Riverhead store?

9 A. She comes just, you know, to see  
10 the store.

11 Q. When you were at the Oceanside  
12 store, did any other T.J. Maxx employees above  
13 the district manager come into the store?

14 A. Yes.

15 Q. Who?

16 A. Celine is the VP.

17 Q. Celine again?

18 A. Yes, but she's the one who is  
19 higher.

20 Q. She's the level above the  
21 district manager?

22 A. No, she's higher than that.

23 Q. She's higher?

24 A. Yes, they just come to see what  
25 the store looks like.

104

1 A. Dunscomb

2 Q. During the -- every single day  
3 is there always an MCD?

4 A. Yes.

5 Q. Throughout the day?

6 A. Throughout the day.

7 Q. Does that person change?

8 A. Yes.

9 Q. Who creates the MOD schedule?

10 A. The manager that works Sunday  
11 before they open, usually takes the manager's  
12 schedule and creates an MOD list for --  
13 according to everybody's schedule.

14 MS. RUBIN: Do you need a break  
15 or you are okay?

16 THE WITNESS: I'm fine.

17 MS. RUBIN: Are you okay?

18 MR. BAUER: Yes.

19 Q. Do you know what the labor  
20 budget is for the Riverhead store?

21 A. The labor budget?

22 Q. Yes.

23 A. What do you mean by that.

24 Q. Do you have a labor budget?

25 A. You might be saying it

105

1 A. Dunscomb

2 differently than I'm accustomed to. Do you mean  
3 the wages of the associates, the minimum wages  
4 or the budget of the scheduling?

5 Q. The budget of the scheduling.  
6 What do you refer to it as?

7 A. Our budget.

8 Q. What is the budget for the  
9 Riverhead store?

10 A. It depends on what the plan is  
11 for the month, it's broken down into several --  
12 so every week it's broken down to a certain  
13 amount of dollar amount that you are able to  
14 spend as far as budgeting for the schedule.

15 Q. Is there a range that the budget  
16 goes between?

17 A. Well, the company decides on  
18 your budget according to what you did in sales  
19 last year to what they plan you to this year  
20 then they establish a budget for you.

21 Q. Has the budget at Riverhead  
22 stayed around the same dollar amount?

23 MR. BAUER: Objection as to  
24 form. You can answer.

25 A. I couldn't answer that one, I

1 A. Dunscomb

2 don't know.

3 Q. Do you review the budget?

4 A. I do review the budget, but I've  
5 only been there a year, so I don't know what  
6 their budget was there for prior. I only know  
7 what I know now.

8 Q. Has your budget been consistent  
9 since you have been there?

10 A. We are at the slow period, so it  
11 has gone down a lot. We are just coming out of  
12 a holiday.

13 Q. Is it higher during the holiday?

14 A. Yes.

15 Q. Does that affect how associates  
16 are scheduled?

17 A. It affects how much you are  
18 spending on your budget and how many associates  
19 are coming in at the time.

20 Q. At the lower budget, does that  
21 correlate to less associates working?

22 A. Not necessarily so, it depends  
23 on their hourly rate. Like if you have a  
24 higher-salaried person and you use a  
25 lower-salaried person, you still have more

1 A. Dunscomb

2 flexibility to bring in more people.

3 Q. As an operations ASM, do you  
4 have the authority to give overtime to an hourly  
5 employee?

6 A. There's no overtime. We don't  
7 give overtime.

8 Q. Why not?

9 A. It affects your budget, you  
10 know, you are not the only store in the  
11 district, we all operate on what the whole  
12 district is operating on.

13 Q. When you were at Riverhead --

14 A. I don't give overtime.

15 Q. Have there been times when you  
16 want to give overtime?

17 A. No.

18 Q. Have there been times when you,  
19 being the store, required that someone work  
20 overtime?

21 MR. BAUER: Asked and answered.  
22 She just answered that question.

23 THE WITNESS: Yeah, no.

24 MS. RUBIN: Okay.

25 Q. At Oceanside, did you have the

108

1 A. Dunscomb

2 ability to give overtime?

3 A. No.

4 Q. Did you ever want to give  
5 overtime?

6 A. No.

7 Q. Why not?

8 A. It wasn't necessary.

9 Q. Do you know what the sales  
10 volume is of the Riverhead store?

11 A. It's fourteen point five nine.

12 Q. When you were working at  
13 Oceanside, what was the sales volume?

14 A. About seven million.

15 Q. At Oceanside, was there a dress  
16 code?

17 A. Yes.

18 Q. What was the dress code?

19 A. Business casual, no blue denim.

20 Q. Did that dress code apply to all  
21 employees?

22 A. Yes.

23 Q. Including assistant managers and  
24 store managers?

25 A. Yes.

1 A. Dunscomb

2 Q. As a merchandise ASM, did you  
3 have any say in the dress code?

4 A. No, that was the company  
5 standards.

6 Q. At Riverhead, is there a dress  
7 code?

8 A. Yes.

9 Q. What is that dress code?

10 A. Business casual, no blue denim.

11 Q. Same for all employees?

12 A. Same for all employees.

13 Q. Do you have any say in the dress  
14 code?

15 A. Nope.

16 Q. When you were at Oceanside, did  
17 you clock in?

18 A. No.

19 Q. Did you clock out?

20 A. No.

21 Q. At Riverhead, do you clock in?

22 A. No.

23 Q. Clock out?

24 A. No.

25 Q. At Oceanside, how often did you

110

1 A. Dunscomb

2 clean the bathrooms?

3 A. Whenever needed.

4 Q. Weekly?

5 A. I don't know. I don't know, I  
6 just know whenever needed. If I didn't have to  
7 do it, I didn't do it. If I had to do it, I did  
8 it. I can't tell you whether it was weekly.

9 Q. Once a year?

10 A. More than that, definitely more  
11 than that.

12 Q. Once a month?

13 A. No, I guess once a week, I can't  
14 -- I can't put a number on it.

15 Q. At Riverhead, do you clean the  
16 bathrooms?

17 A. Once a week.

18 Q. Do other assistant managers  
19 clean the bathrooms at Riverhead?

20 A. Yes.

21 Q. How many bathrooms are there at  
22 Riverhead?

23 A. There's a ladies room and a  
24 men's room.

25 Q. Do the other assistant managers



111

1 A. Dunscomb

2 also clean the bathrooms about once a week?

3 A. Yeah, I would say that, yes.

4 Q. Hopefully not the same day you  
5 are doing it?

6 A. No, what I mean by clearing the  
7 bathrooms, it's not I go in and clean the  
8 bathroom, it's if I see the bathroom is in  
9 dishevels, then yes, I'm going to go in and  
10 clean the bathroom.

11 Q. At Oceanside, did you see other  
12 assistant managers cleaning the bathrooms?

13 A. Yes.

14 Q. Also once a week?

15 MR. BAUER: Objection to form.

16 A. I can't answer for them, I don't  
17 know if they do it once a week.

18 MS. RUBIN: I just want to take  
19 a few minutes. I'll be back.

20 (Recess taken.)

21 MS. RUBIN: Back on the record.

22 Q. Have you heard of Oracle?

23 A. Yes.

24 Q. What is Oracle?

25 A. Oracle is a system that you

112

1 A. Dunscomb

2 place associates in when you first hire them  
3 into the system so it marries into the other  
4 systems to get them like their time and  
5 attendance. When you first hire someone, you  
6 have to input all of their information that's  
7 the main system that you enter.

8 Q. Who has access to Oracle?

9 A. The managers, store manager, and  
10 associates have an Oracle that they can access  
11 online for I guess their time, if they have  
12 vacation time and they want to look into that.

13 Q. Do you know if the district  
14 manager has access to Oracle?

15 A. Yes.

16 Q. He does have access?

17 A. Yes.

18 Q. Or she?

19 A. Yes.

20 Q. If you had to terminate someone  
21 for cause, would human resources need to be  
22 involved?

23 MR. BAUER: Objection to form.

24 You can answer.

25 A. No.

1 A. Dunscomb

2 valentine's Day. You know, if I was doing a,  
3 um, I'm trying to think now of departments, like  
4 AD; AD is the hard goods of the houseware end.  
5 You know, you have baskets and little jewelry  
6 boxes and stuff like that, everything that  
7 pertains to Valentine's Day, I would create some  
8 kind of story on the end cap that would entice a  
9 customer to come to it and shop off of it.

10 Q. And similar for Christmas?

11 A. Similar for Christmas.

12 Q. And for all the holidays you  
13 would do that?

14 A. For all the holidays I would do  
15 that.

16 Q. You also testified about, um,  
17 cleaning in Oceanside and Riverhead, let me ask  
18 you about Oceanside first. In Oceanside, did  
19 you have a position in that store known as a  
20 maintenance associate?

21 A. Yes.

22 Q. Okay. What was the role of the  
23 maintenance associate?

24 A. The maintenance associate was to  
25 do the vacuuming of the carpets, cleaning of the

134

1 A. Dunscomb

2 windows, the mirrors; if he was in at the time,  
3 he would be the one to clean the bathrooms.  
4 Just various duties; dusting of the racks, the  
5 red valance around the store, make sure it's  
6 dusted. The appearance of the store, empty  
7 trash.

8 Q. Okay. Continue, is there  
9 anything else you can think of?

10 A. Sometimes dust and sweep like  
11 the floors.

12 Q. Let me ask you this, again, I'm  
13 talking about Oceanside right now?

14 A. Right.

15 Q. Was there also an outside  
16 cleaning company that came in and cleaned?

17 A. Yes.

18 Q. How often?

19 A. They came daily, but they only  
20 worked -- they came in at 7 and left at 10.

21 Q. What would they do?

22 A. They would actually sweep and  
23 damp mop and buff the floors and clean the  
24 bathrooms. Then they left.

25 Q. They would clean the bathrooms

135

1 A. Dunscomb

2 every day?

3 A. Every day in the morning.

4 Q. You said the maintenance  
5 associate would also clean the bathrooms at  
6 times?

7 A. Yes, he would clean at times,  
8 not always. It wasn't his job to clean the  
9 bathroom, he would do it if there was an issue.

10 Q. But on a daily basis it was done  
11 by a cleaning company?

12 A. Yes.

13 Q. Again, I'm talking about  
14 Oceanside?

15 A. Yes.

16 Q. In terms of, I think you  
17 testified you cleaned the bathrooms --

18 A. Yes.

19 Q. -- in Oceanside approximately  
20 once a week?

21 A. Yes.

22 Q. Is this something that you  
23 decided to do or were you told to do it?

24 A. No, this is something I decided  
25 to do. I like a clean bathroom, and I live far

136

1 A. Dunscomb

2 from my home not to go home and go to the  
3 bathroom, so I would do it. That took place  
4 after the cleaning crew had gone for the day or  
5 the maintenance guy.

6 Q. I think you also said if there  
7 was a spill or a break you would jump in in  
8 those situations as well?

9 A. That would be every associate  
10 was able to do that.

11 Q. Okay. So if there --

12 A. Yes, the managers as well. I  
13 mean, you don't walk past something that you --  
14 you don't want somebody to get hurt.

15 Q. For instance, if there was a  
16 glass item broken on the floor?

17 A. If you were by it, you would  
18 hail an associate down, tell them if they could  
19 go get a broom and mop while you watch the  
20 breakage, and they would come back and you would  
21 clean it up. If the floor was wet, you would  
22 leave the sign there so that an associate or a  
23 customer wouldn't fall.

24 Q. Let's switch over to Riverhead?

25 A. Yes.

1 A. Dunscomb

2 Q. Does Riverhead also have a  
3 maintenance associate?

4 A. Yes.

5 Q. How many?

6 A. We have two.

7 Q. Okay. Does the maintenance  
8 associate work every day?

9 A. The maintenance associate -- the  
10 first maintenance associate works from Monday to  
11 Friday, the second maintenance associate works  
12 on the weekends.

13 Q. So there is a maintenance  
14 associate there every day?

15 A. Yes.

16 Q. Are the responsibilities of the  
17 Riverhead maintenance associate similar to the  
18 responsibilities of the Oceanside maintenance  
19 associate that you discussed just a few minutes  
20 ago?

21 A. Yes.

22 Q. Is there also any cleaning  
23 company that cleans the Riverhead store?

24 A. Yes.

25 Q. How often do they come in to

1 A. Dunscomb

2 clean?

3 A. They come in daily.

4 Q. Do they do the same types of  
5 cleaning that are done in the Oceanside store  
6 that you testified to a few minutes ago?

7 A. Yes.

8 Q. Again, in Riverhead you  
9 testified that you clean the bathroom out once a  
10 week, correct?

11 A. Yes.

12 Q. Is that similar to what you  
13 testified to in Oceanside, you do that because  
14 you like a clean bathroom?

15 A. Yes.

16 Q. You also testified a little bit  
17 about your role in the evaluation of associates,  
18 correct?

19 A. Yes.

20 Q. Just so I understand it  
21 correctly, the evaluations that you have done --  
22 let's go back. Did you do them when you were in  
23 Oceanside?

24 A. Yes.

25 Q. And you do them in Riverhead?



139

1 A. Dunscomb

2 A. Yes.

3 Q. What's your role in the process?

4 A. In --

5 Q. The evaluation of the  
6 associates?

7 A. In both stores?

8 Q. If they are different, please  
9 explain.

10 A. They are not different. Where  
11 were we?

12 Q. If it's the same --

13 A. It's the same.

14 Q. Okay.

15 A. The store manager would probably  
16 send me to give me people that I deal with, and  
17 I would go back and pull their evaluation, read  
18 it through and decide, you know, whether they  
19 fit in the scale that they fit. Evaluate them.  
20 Then when it is time to give them their  
21 evaluation, I would call them into the office  
22 and we would sit down and discuss their  
23 evaluation, go over it step by step and come up  
24 with some kind of an action plan if there is a  
25 problem we can fix, and go over it and give it a

1 A. Dunscomb  
2 coordinator in the Oceanside store?

3 A. There was briefly, she was there  
4 -- I was there -- she was there for two -- when  
5 I got there, two years after that she left, then  
6 they didn't replace that.

7 Q. In the Riverhead store, does the  
8 maintenance associate report to you as the  
9 operations ASM?

10 A. Yeah.

11 MR. BAUER: I have nothing  
12 further right now.

13 MS. RUBIN: I have a few  
14 follow-up. Maybe more than a few.

15 FURTHER EXAMINATION BY

16 MS. RUBIN, ESQ.:

17 Q. Does every employee at T.J. Maxx  
18 get a walkie-talkie?

19 A. No.

20 Q. Who gets walkie-talkies?

21 A. People on the sales floor, the  
22 management, the coordinators, the backroom  
23 coordinator, the cashiers. I think that's it.

24 Q. Did merchandise coordinators  
25 have the ability to decide where they wanted

147

1 A. Dunscomb

2 certain merchandise to go?

3 A. Yes.

4 Q. Would you say that in Oceanside  
5 the store manager is ultimately responsible for  
6 how the store operates -- operated?

7 A. No, we are all responsible for  
8 that.

9 Q. Do you work with other assistant  
10 managers when putting together features and end  
11 caps?

12 A. Yes.

13 Q. Do you work with the store  
14 manager when putting together features and end  
15 caps?

16 A. Yes.

17 Q. Do you have the authority to  
18 give an associate a wage increase?

19 A. I don't know. I never had to do  
20 that.

21 Q. Do coordinators get a bonus?

22 A. No.

23 Q. Is there a background check for  
24 new hires?

25 A. There's a background check for

148

1 A. Dunscomb

2 -- yes, it's, um, for, um, sensitive, like the  
3 cash office.

4 Q. If they fail that background  
5 check, can you still hire them?

6 A. No.

7 Q. Do you report to the store  
8 manager?

9 A. Yes.

10 Q. When you were at Oceanside, did  
11 you report to the store manager?

12 A. Yes.

13 MS. RUBIN: I'm done.

14 MR. BAUER: I think just one  
15 question.

16 FURTHER EXAMINATION BY

17 MR. BAUER, ESQ.:

18 Q. If a merchandise coordinator  
19 sets something up that you as the merchandise  
20 ASM didn't like, could you have him or her  
21 change it?

22 A. I would -- if it wasn't set up  
23 properly I would bring her over to it and  
24 discuss it with her and explain to her that, you  
25 know, what was wrong, if it was wrong. Then

149

1 A. Dunscomb

2 yes, we would change it.

3 MR. BAUER: I have nothing  
4 further.

5 MS. RUBIN: I'll just state for  
6 the record that I confirmed that we are  
7 splitting the cost of the deposition and  
8 for all depositions going forward with  
9 the exception of any additional things  
10 being added to the deposition like real  
11 time or additional copies, right?

12 MR. BAUER: Okay, well, so we  
13 are splitting the cost --

14 MS. RUBIN: Yes.

15 MR. BAUER: -- okay and that gets  
16 us a copy and the E-transcript?

17 THE REPORTER: You will receive  
18 a hard copy in the mail and it will be  
19 sent via E-Transcript. Is that okay?

20 MR. BAUER: Yes, that's fine.

21 (Whereupon, the within  
22 examination was concluded at 6:35 p.m.)

23 \* \* \*

24

25

150

ACKNOWLEDGEMENT

STATE OF )  
COUNTY OF ) ss.:

I have read the foregoing record  
of my testimony taken at the time and place  
noted in the heading hereof and I do hereby  
acknowledge it to be a true and correct  
transcript of same.

  
ANGELINA DUNSCOMB

Subscribed and sworn to  
before me this 8<sup>th</sup> day  
of March, 2012.

Pamela J. Dzikowski (Kennedy)  
NOTARY PUBLIC

PAMELA J. DZIKOWSKI (Kennedy)  
NOTARY PUBLIC, State of New York  
No. 01024832300  
Qualified in Suffolk County  
Commission Expires August 31, 2013

# Exhibit 4

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ORIGINAL

-----X  
MOHAMMED M. AHMED,

Plaintiff,

-against-

10-CV-3609

T.J. MAXX CORP., and TJX COMPANIES, INC.,

Defendants.  
-----X

600 Old Country Road  
Garden City, New York

February 13, 2012  
10:02 a.m.

DEPOSITION of JOSEPH PAPARATTO  
pursuant Federal Rules and held before  
Denise A. Caruso, a Notary Public of  
the State of New York, at the  
above-stated time and place.



1

2 A P P E A R A N C E S:

3

4

5 VALLI KANE AND VAGNINI, LLP

6 Attorneys for the Plaintiff

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8 Garden City, New York 11530

9 BY: ROBERT VALLI, JR., ESQ.

10 BY: DEBORAH RUBIN, ESQ.

11

12

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16 Melville, New York 11747

17 BY: JOHN T. BAUER, ESQ.

18 BY: JUSTIN MARINO, ESQ.

19

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24

25

1 J. Paparatto

2 contacted me and that I didn't have any  
3 information on what was going on.

4 Q. When you say no one contacted  
5 you, you mean no one from T.J. Maxx?

6 A. Right, no one other than from  
7 your office.

8 Q. Did anyone from my office tell  
9 you that you couldn't speak with T.J. Maxx?

10 A. No.

11 Q. When they put you in --

12 MR. VALLI: Withdrawn.

13 Q. Do you know who you spoke with  
14 at the T.J. Maxx corporate office?

15 A. I think his name was Shaun.

16 Q. Had you spoken with Shaun  
17 before?

18 A. No.

19 Q. Do you know what Shaun's last  
20 name is?

21 A. Murphy I believe.

22 Q. Where is the corporate office  
23 located?

24 A. We have a couple, I'm not sure  
25 which one I contacted.

1 J. Paparatto

2 Q. Okay. How did you get in touch  
3 with Justin, did you call him or did he call  
4 you?

5 A. I believe Shaun had called me  
6 and let me know that Justin was going to come  
7 see me, and then I met Justin face-to-face.

8 Q. Was it the first time you had  
9 spoken to him, Justin that is?

10 A. I believe so, there might have  
11 been in between calls saying I'm on my way, but  
12 no, that was it.

13 Q. I understand.  
14 Where did he come see you?

15 A. At my store.

16 Q. Where is your store?

17 A. That would be Wilton,  
18 Connecticut.

19 Q. What is your position at that  
20 store?

21 A. I'm the operations manager.

22 Q. How long have you been the  
23 operations manager at the Wilton, Connecticut  
24 store?

25 A. Since October of 2010, I

1 J. Paparatto

2 believe.

3 Q. Where did you meet with Justin?

4 A. In my -- in the manager's  
5 office.

6 Q. When you say you are an  
7 operations manager, that's an assistant manager  
8 position?

9 A. Yes, correct.

10 Q. Do the assistant managers have  
11 their own office?

12 A. Not in this particular store.

13 Q. Can you recall, in sum and  
14 substance, the conversation you had with Justin?

15 A. He asked me about what I do for  
16 T.J. Maxx, what my work experiences are.

17 Q. Did he ask about your  
18 conversations with my firm?

19 A. Yes.

20 Q. What did you tell him?

21 A. I had told him that I had spoken  
22 with your firm and that we had some dialogue  
23 back and forth.

24 Q. Did you tell him anything  
25 specific about that dialogue back and forth?

1 J. Paparatto

2 A. In certain stores.

3 MR. BAUER: Objection as to  
4 form.

5 Q. Are there any other ASM titles  
6 that you are aware of?

7 A. Not that I know of, but they  
8 keep popping up. The customer service manager  
9 is new, I hadn't heard of that one recently, the  
10 more volume you have, and T.J. Maxx is growing  
11 rather quickly, the more titles seem to, you  
12 know, pop in there.

13 Q. Have you been a plaintiff in a  
14 lawsuit?

15 A. No.

16 Q. Ever a defendant in a lawsuit?

17 A. No.

18 Q. Other than testifying for  
19 Toys"R"Us, ever a witness in a lawsuit?

20 A. No.

21 Q. Can you tell me, when you  
22 started in March of 2000, what were your duties  
23 as a merchandising ASM?

24 A. Making sure that the merchandise  
25 was out on the sales floor, what we call our

1 J. Paparatto

2 features, kind of displays, make sure the  
3 features were full. I was in charge of quite a  
4 few employees, so got to make sure they were  
5 doing all of those things. As a merchandiser,  
6 my job is to make sure the store is full and  
7 packed full, the merchandise is out on the sales  
8 floor or within company guidelines.

9 Q. Where were you I guess working  
10 location-wise when you first came back to T.J.  
11 Maxx?

12 A. First came back the second time?

13 Q. We are going to stay with the  
14 second time.

15 A. East Haven, Connecticut.

16 Q. Who was your store manager?

17 A. I do not recall her name.

18 Q. Okay. Did you have any  
19 assistant managers at the East Haven store?

20 A. Yes.

21 Q. Do you recall their names?

22 A. People come and go so quickly.  
23 At that time, Brian, I'm not sure what his last  
24 name was.

25 Q. Okay. Do you know if Brian is

1 J. Paparatto

2 still employed with T.J. Maxx?

3 A. No, he is not.

4 Q. Do you know where he's employed?

5 A. The last I heard he was with  
6 Kohl's.

7 Q. Did there come a time when you  
8 left the East Haven, Connecticut store?

9 A. Yes.

10 Q. Where did you go?

11 A. I've been transferred many times  
12 in T.J. Maxx. I believe the next store was East  
13 Haven -- I mean North Haven, my apologies.

14 Q. John has asked for you to have  
15 the ability to read and review. If there's  
16 obviously a change, whether it's minor or not,  
17 you will have an opportunity. So if there is a  
18 mistake, you know what, this should really read  
19 this, it's called an errata sheet.

20 A. In the last seven years -- that  
21 first seven years that I was with T.J. Maxx,  
22 they put me from store to store to store, many  
23 stores twice, so it gets a little blurry of what  
24 was first, what was second and what was third.

25 Q. Let's go backwards and get as

39

1 J. Paparatto

2 far into the past as we can to see if that is  
3 more pertinent for the case.

4 You are currently at the Wilton  
5 store?

6 A. Right.

7 Q. You are an operations ASM at the  
8 Wilton store?

9 A. Yes.

10 Q. Did you say from March of 2010?

11 A. No, October.

12 Q. October, right. Okay. Where  
13 were you working prior to the Wilton store?

14 A. Newtown, Connecticut.

15 Q. What was your title there?

16 A. Merchandise manager.

17 Q. How long were you there for?

18 A. Only a couple of months, I  
19 believe I got there July, July 4 of 2010, and I  
20 was only there to November -- October.

21 Q. Is there a reason you were moved  
22 out of the Newtown, Connecticut store within a  
23 few months, that you are aware of?

24 MR. BAUER: Objection as to  
25 form.



1 J. Paparatto

2 A. Yes, I was, prior to that, I was  
3 working on Long Island, and the company had  
4 helped me get from Long Island to Connecticut,  
5 and that was the store they put me in as a  
6 holding point until they found a better position  
7 for me, where Newtown really didn't need me.

8 Q. Can we say it's an interim  
9 position then, pending your permanent  
10 appointment in a Connecticut store?

11 MR. BAUER: Objection as to  
12 form.

13 A. You can say that.

14 Q. Why did you want to move from a  
15 Long Island store to a Connecticut store?

16 A. I had actually lived in  
17 Connecticut and my house was still there.

18 Q. So prior to working in the  
19 Newtown store, you worked in a Long Island  
20 store?

21 A. Yes.

22 Q. Where was that?

23 A. Massapequa.

24 Q. What was your title in the  
25 Massapequa store?

1 J. Paparatto

2 A. Merchandise manager.

3 Q. How long were you there for?

4 A. Just a couple of months. I want  
5 to say May to July.

6 Q. Any reason that you are aware of  
7 why you were in the Massapequa store for only a  
8 couple of months?

9 MR. BAUER: Objection as to  
10 form.

11 A. Yes.

12 Q. Why?

13 A. At that point, they knew I was  
14 transferring back to Connecticut, so they filled  
15 my position in the Commack store and moved me  
16 temporarily to Massapequa until there was an  
17 opening in Connecticut.

18 Q. So prior to working in  
19 Massapequa, you were in the Commack store?

20 A. Yes.

21 Q. What was your title in the  
22 Commack store?

23 A. Operations manager.

24 Q. How long were you working in the  
25 Commack store?

1 J. Paparatto

2 A. No. A key holder can grab an  
3 application and look at it and certainly give  
4 their opinion on it, but it's just a manager or  
5 store manager that's going to really review the  
6 application and go from there.

7 Q. What are the steps that are  
8 required then in hiring someone now that you  
9 have gotten the application?

10 A. Once you get the application?

11 Q. Yes, sir.

12 A. Review it, if they look like  
13 somebody that you would like to talk to, if  
14 their qualifications are okay. I usually look  
15 at salary, you know, what kind of salary range  
16 they are looking at, if they had past experience  
17 in retail, if it's their first job. If they are  
18 overqualified, why are you looking for a minimum  
19 wage position, education.

20 How well the application is  
21 filled out, is it filled out completely. Are  
22 there gaps in employment, are there gaps in  
23 general. Are there questions not answered and  
24 skipped over. Is the application signed, are  
25 they signing if they are supposed to or where it

1 J. Paparatto

2 says sign here.

3 If you live in Connecticut and  
4 they are filling out a New York application. As  
5 far as their references, do their references  
6 match up with who they say they worked for.

7 Q. In terms of minimum wage  
8 position I guess, what authority do you have to  
9 hire above minimum wage?

10 MR. BAUER: Objection as to  
11 form.

12 A. It depends on the store.

13 Q. Let's go with a store -- have  
14 you worked in stores where you have not had the  
15 authority to hire above minimum wage?

16 A. Yes.

17 Q. Do you recall what stores?

18 A. It's a general question, our  
19 base for hiring is minimum wage. In specific  
20 stores, if I wanted to hire someone over minimum  
21 wage, I'm sure I can do that with getting  
22 authorization. But I believe you are asking do  
23 I have the ability to change that on my own?

24 Q. When you say get authorization,  
25 would that be from the store manager or someone

1 J. Paparatto

2 else?

3 MR. BAUER: Objection as to  
4 form.

5 A. Again, it depends on the store,  
6 some stores I can ask the store manager if they  
7 have that leeway, other times I have to go  
8 through the district manager.

9 Q. Is there a chain of command  
10 within the stores in terms of speaking with the  
11 district manager?

12 MR. BAUER: Objection as to  
13 form.

14 A. Yes, um, we call it open door,  
15 we actually have a name for it. You really  
16 would like to go through the chain, but you  
17 don't have to go through the chain. That's the  
18 whole purpose of open door, you feel free to  
19 talk to whoever you want.

20 Q. If the store manager is present  
21 in the store, preferably you go through them  
22 first?

23 A. Preferably, yes.

24 MR. BAUER: Objection as to  
25 form.

1 J. Paparatto

2 When the store manager creates  
3 the schedule, do they create it for a week, two  
4 weeks, three weeks?

5 MR. BAUER: Objection as to  
6 form.

7 A. In my particular store, it's  
8 three months in advance.

9 Q. Three months in advance?

10 A. Yes.

11 Q. If you wanted to alter the  
12 schedule, do you have to talk to the store  
13 manager?

14 A. Yes. Wait, the management  
15 schedule?

16 Q. The management schedule, yes.  
17 How is the hourly employees'  
18 schedule created?

19 A. Depending on the store --

20 Q. The store you are currently in?

21 A. The computer will come up with  
22 a -- I don't want to say a generic schedule, but  
23 a basic schedule, and then myself or the store  
24 manager will tweak it.

25 Q. When you say tweak the schedule,

1 J. Paparatto

2 what would you do to the schedule to tweak it?

3 A. Make sure that there are no  
4 spaces. The computer is not fail proof, so, you  
5 know, it may leave you an area not covered that  
6 specifically needs a person there.

7 Q. GIGO, garbage in and garbage  
8 out?

9 A. Yes.

10 Q. Do you know if the scheduling  
11 computer -- it's called Kronos?

12 A. Yes.

13 Q. Does someone enter in the  
14 available times of the associates so the  
15 computer knows, for instance, I can't schedule,  
16 you know, John for Tuesday and Thursdays because  
17 he's in school, is that built into the system?

18 MR. BAUER: Objection as to  
19 form.

20 A. Yes, that information has to be  
21 input. It doesn't work unless it knows what the  
22 availability of each associate is.

23 Q. What, if any, role do you play  
24 in setting the hours of the store that it's  
25 open?

1 J. Papparatto

2 MR. BAUER: Objection as to  
3 form.

4 A. The store hours?

5 Q. Yes.

6 A. None, that's company directed.

7 Q. Has that been in every store  
8 that you worked in?

9 A. Yes.

10 Q. In terms of the non-customer  
11 hours now, the opening and closing times, what,  
12 if any, role do you have in the setting of those  
13 times?

14 MR. BAUER: Objection as to  
15 form.

16 A. There's two parts to that  
17 question. As far as the company sets a specific  
18 time where you have to be there on those  
19 non-customer hours. If we feel we need more  
20 time to do a specific project, I can certainly  
21 make that decision or another member of  
22 management or the store manager.

23 Q. In terms of associate hours, are  
24 associates permitted to work overtime?

25 A. They are permitted to work



1 J. Paparatto

2 reasonable. If you have speaking  
3 objections, I normally don't accept  
4 them.

5 MR. BAUER: It sounded the way  
6 it was speaking when he said they he was  
7 referring to the register.

8 Q. I'm thinking the whole register  
9 drawer comes out and the whole drawer goes into  
10 a canvas bag? I am incorrect?

11 A. You are not correct. Let me  
12 clarify; I do not lift the register up and put  
13 it in the bag.

14 Q. I worked at places and the whole  
15 drawer comes out and the drawer slides into a  
16 slot in a safe.

17 A. The drawer does come out, and  
18 the drawer opens, and there is an individual  
19 drawer that pops out, that stays on the counter.  
20 The money that is in that drawer gets collected,  
21 put into a small canvas bag and the canvas bag  
22 is brought to the safe.

23 Q. Okay. Does anyone count that  
24 money out?

25 A. No -- well, the following

103

1 J. Paparatto

2 morning it gets counted.

3 Q. Is there an opening procedure  
4 regarding counting the money in those canvas  
5 bags?

6 A. Yes.

7 Q. Who does that?

8 A. The administrative coordinator  
9 or the money counter, since the position is  
10 disappearing, money counter person.

11 Q. Is there a second person, a  
12 witness, who does that with them?

13 A. No, there is a camera on them  
14 24/7.

15 Q. They must count the money at a  
16 certain location in the store?

17 A. In a cash office.

18 Q. Your current store, does it have  
19 a contract cleaning company?

20 A. Yes.

21 Q. Are there any cleaning  
22 responsibilities for T.J. Maxx employees?

23 A. Yes.

24 Q. What are those responsibilities?

25 A. Vacuum the carpets in the

104

1 J. Paparatto

2 morning, wipe down the windows, dust the place.  
3 All the fixtures get dusted, any areas that are  
4 exposed. Canopies that run around the edge of  
5 the store, the fitting rooms, any surface that  
6 can collect dust. That's the maintenance man's  
7 job, cleaning.

8 Q. So there's a maintenance person  
9 that does that?

10 A. Oh, yeah, he's a nice guy.

11 Q. He's assigned to your store?

12 A. Yes.

13 Q. I'm sorry, you are currently the  
14 operations manager in your store?

15 A. Yes.

16 Q. Who is the merchandise manager?

17 A. Irene, she just got there, I'm  
18 not sure of her last name.

19 Q. Do you know if she's salaried?

20 A. Yes, she's salaried.

21 Q. Since you have been an ASM at  
22 T.J. Maxx, have you gone on any training  
23 seminars or training junkets?

24 MR. BAUER: Objection as to  
25 form.

1 J. Paparatto

2 A. Yes.

3 Q. Where have you gone for  
4 training?

5 A. Where have I gone for training?

6 Q. Yes.

7 A. New Jersey.

8 Q. I wasn't thinking it was  
9 something special, I was just asking.

10 A. Okay.

11 Q. Was it a store?

12 A. No, sometimes it's a hotel,  
13 sometimes it's a corporate office.

14 Q. I want to differentiate between  
15 training you are now receiving as an ASM and  
16 training you received when you became an ASM, do  
17 you understand the difference?

18 A. Yes.

19 Q. Did you receive generalized  
20 training to become an ASM at T.J. Maxx?

21 A. Yes.

22 Q. When was that?

23 A. I went through it twice because  
24 I left and came back. The most recent would  
25 have been in November 2008.

1 J. Paparatto

2 Q. Was the training similar to what  
3 you had gone through when you first came to T.J.  
4 Maxx?

5 MR. BAUER: Objection as to  
6 form.

7 A. Similar, there are some new  
8 things that had gone on the year I was not with  
9 T.J. Maxx, and it wasn't as formal -- I can't  
10 say it wasn't as formal, it wasn't as much. I  
11 spent seven years with the company, I didn't  
12 need everything all over again.

13 Q. Where did that take place?

14 A. Several different stores, I  
15 learned Kronos. And I don't remember the name  
16 of the store, if I had a store listing I could  
17 tell you, it was out here on Long Island.

18 Q. It was all in stores, though?

19 A. Yes, they had specific trainers  
20 for specific parts. I did some training in  
21 Carle Place, some in, I'm not sure if it was  
22 Kings Park or Islandia, I always get those two  
23 stores confused. And one of the stores is close  
24 to an airport, I don't remember which one it  
25 was. That was my Kronos training.

1 J. Paparatto

2 Q. Approximately how many other  
3 persons were taking the training when you took  
4 the training in November of 2008?

5 A. I was individualized, so it was  
6 me.

7 Q. Just you?

8 A. Yes.

9 Q. Did you receive any training  
10 manuals at the time?

11 A. Parts of training manuals, but  
12 not actual training manual. My first time with  
13 T.J. Maxx I got the training manual. The second  
14 time back I only got the pieces that I really  
15 needed.

16 Q. Are there such things as  
17 training stores that you are aware of at T.J.  
18 Maxx?

19 A. Yeah, um, it depends on the  
20 district.

21 Q. I guess explain the difference?

22 A. I'm saying it like that because  
23 I haven't heard the term, they do come and go,  
24 there are specific stores that are training  
25 stores that you will go to. I haven't heard it

1 J. Paparatto

2 in a while so I'm not sure it still exists.

3 Q. During your tenure at T.J. Maxx,  
4 have you ever been sent to a different store for  
5 a short period of time to help out?

6 A. Yes.

7 Q. In what circumstances?

8 A. Um, help a store do inventory,  
9 help prepare stores for inventories, help  
10 re-fixture, redo stores.

11 Q. When you have to help a store to  
12 prepare or do their inventory, what do you do?

13 A. In the case of me doing  
14 inventory, I was actually the counter -- let me  
15 rephrase. I actually did inventories in the  
16 stores.

17 Q. So you are counting each  
18 article?

19 A. Yes, I was part of the inventory  
20 crew.

21 Q. Is there more than one counter?

22 A. Yeah.

23 Q. I was getting scared.

24 A. Yes, there are a lot of  
25 counters, but we had a specific core group of

109

1 J. Paparatto

2 counters as well as the -- those individuals in  
3 the store. Each store would count their own  
4 inventory. Again, depending on the store, some  
5 stores have a company that comes in. Most T.J.  
6 Maxx -- we do our own inventory, we have our own  
7 guns. Out here on Long Island, we had a  
8 specific crew, management team that would go  
9 along and help out whatever store was having  
10 inventory.

11 Q. Are there two counts of  
12 inventory, one done by either the company or  
13 the -- the outside company or the store  
14 employees and the second one done by this  
15 management crew?

16 MR. BAUER: Objection as to  
17 form.

18 A. Either one or the other.

19 Q. Is there a cross-check to say we  
20 counted X and you counted Y?

21 A. No, there's one inventory.

22 Q. How many members of management  
23 were on this crew?

24 MR. BAUER: Objection as to  
25 form.



110

1 J. Paparatto

2 A. Yes.

3 MR. VALLI: I'll withdraw.

4 Q. This management crew that went  
5 around counting, who were the members?

6 A. I'm not sure, I only know me.

7 Q. How many people?

8 A. Maybe five to eight.

9 Q. All ASMs?

10 MR. BAUER: Objection as to  
11 form.

12 A. I'm not sure, there might have  
13 been a manager or two in there. Certainly the  
14 manager from each store would be present, of  
15 course. I'm not sure if there was a traveling  
16 manager or if it was all ASMs.

17 Q. How did it come to be that you  
18 were part of this counting team?

19 A. They liked me, I don't know. I  
20 didn't volunteer, they said you are on the  
21 committee, all right.

22 Q. How many stores did you end up  
23 counting inventory for as part of this --

24 A. Four to five.

25 Q. Four to five?

111

1 J. Paparatto

2 A. Yes.

3 Q. I think we asked this, but I  
4 wasn't sure, in your current store, there is not  
5 an ASM office, correct?

6 MR. BAUER: Objection as to  
7 form.

8 A. Correct, it's a combined office.

9 Q. With the store manager?

10 A. Yes.

11 Q. In other stores, the ASMs had  
12 their own office?

13 A. Yes.

14 Q. Which stores were that?

15 A. I couldn't tell you if I tried.  
16 They all look the same, I leave one store, I go  
17 to the next, don't look back.

18 Q. Do you have an e-mail address at  
19 T.J. Maxx?

20 A. There's an assistant store  
21 manager e-mail address.

22 Q. It's one you share with other  
23 ASMs?

24 A. Yes.

25 Q. Just for that store?

112

1 J. Paparatto

2 A. Just for that store.

3 Q. Do you share that with any other  
4 employees aside from assistant store managers?

5 A. No.

6 Q. Does the key holder have an  
7 e-mail address?

8 A. Yes.

9 Q. How many key holders are in your  
10 store currently?

11 A. Two.

12 Q. Do they share that e-mail  
13 address?

14 A. Yes, they share their e-mail  
15 address.

16 Q. Yes?

17 A. Yes.

18 Q. Do you have access to their  
19 e-mail?

20 A. No, I know what their -- there's  
21 individual e-mail addresses, like there's a  
22 password and an actual, whatever it's called --  
23 I don't know.

24 Q. E-mail address?

25 A. No, no.

113

1 J. Paparatto

2 Q. User name?

3 A. User name. I know their user  
4 name, it's the same in all the stores, same as  
5 the store manager and the assistant store  
6 manager, they don't change.

7 Q. So the user name won't change,  
8 but the password may?

9 A. It will, they are not the same.  
10 It's only the beginning part that is the same,  
11 but the store number will change at the end.  
12 But as far as having access to their specific  
13 e-mail, anything that goes to them will come to  
14 me automatically.

15 Q. Are there a set number of hours  
16 that you are required to work each week?

17 A. Yes.

18 Q. What is that?

19 A. I'm required to be there for ten  
20 hours, but I get an hour break.

21 Q. Five days or six days a week?

22 A. Five days.

23 Q. So fifty hours minus one hour  
24 per day for a break?

25 A. Correct.

114

1 J. Paparatto

2 Q. When you take your break, is it  
3 a working break?

4 A. Yes.

5 Q. You eat on the go?

6 A. Yes.

7 MR. BAUER: Objection as to  
8 form.

9 Q. What phrase would you use, I  
10 call it eating at my desk?

11 A. It's all the same, eating at my  
12 desk, eat while I'm working.

13 Q. Is there a rule about eating in  
14 front of customers though?

15 MR. BAUER: Objection as to  
16 form.

17 A. Yes, you don't eat in front of  
18 the customers.

19 Q. I know that.

20 A. Okay.

21 Q. The five days a week that you  
22 work can be any five days, Monday through  
23 Sunday?

24 MR. BAUER: Objection as to  
25 form.

115

1 J. Paparatto

2 Q. Or Sunday through Saturday,  
3 however you want to say it?

4 MR. BAUER: Objection as to  
5 form.

6 A. Yes.

7 Q. Have you ever complained about  
8 the number of hours you are working at T.J.  
9 Maxx?

10 MR. BAUER: Objection as to  
11 form.

12 A. To a supervisor?

13 Q. Yes.

14 A. No.

15 Q. Have you heard of other ASMs  
16 complaining about the number of hours they have  
17 had to work?

18 MR. BAUER: Objection as to  
19 form.

20 A. In groups or to specific  
21 supervisors?

22 Q. We'll start with specific  
23 supervisors?

24 A. No.

25 Q. In groups?

1 J. Paparatto

2 that?

3 A. I can volunteer somebody, but  
4 no, I would not have involvement with that.

5 Q. Okay.

6 A. Let me rephrase that. I have  
7 interviewed candidates for assistant store  
8 manager to give my opinions on them.

9 Q. Sure.

10 A. Yes.

11 Q. How many hours a week do you  
12 estimate that you spend on interviewing?

13 A. It depends on the time. Where,  
14 around the holidays, we are interviewing quite a  
15 bit, I'll spend a good portion of my day  
16 interviewing. Now, where I just finished  
17 letting people go, it's not a big part of my  
18 day.

19 Q. Can you go an entire week  
20 without interviewing?

21 MR. BAUER: Objection as to  
22 form.

23 A. Yes.

24 Q. So you can go an entire week  
25 without hiring anyone?

123

1 J. Papparatto

2 MR. BAUER: Objection as to

3 form.

4 A. Yes.

5 Q. With respect to discipline, is  
6 there something called an e-form?

7 A. There's a form for discipline,  
8 I'm not sure if it's an e-form.

9 Q. Is it a hard copy or is it done  
10 on the computer?

11 A. It's done on the computer, but  
12 it's not done under e-form. It's done under  
13 Oracle.

14 Q. Oracle?

15 A. Oracle is the program.

16 Q. In your current store, do you  
17 ever ring the registers?

18 MR. BAUER: Objection as to  
19 form.

20 A. Very, very rare. They don't  
21 want to see a member of management on the  
22 register whatsoever.

23 Q. When you say, "they," who is  
24 they?

25 A. District manager, store manager.



1 J. Paparatto

2 It's shunned. I'll take a customer on a very  
3 rare occasion if there is a line building up or  
4 if there is a distraught customer, I'll take  
5 them personally, but that is the exception.

6 Q. Okay. In terms of your  
7 employment, do you receive performance reviews?

8 A. Yes.

9 Q. How often is that done,  
10 generally?

11 A. Twice a year.

12 Q. Who performs your performance  
13 appraisal?

14 A. My store manager will give me  
15 mine.

16 Q. Do you perform performance  
17 appraisals as an ASM?

18 A. Yes.

19 Q. Who do you appraise?

20 A. Anybody under me. Any of my  
21 subordinates.

22 Q. So anyone from a key holder down  
23 to associate?

24 A. Correct.

25 Q. Does the store manager --

1 J. Paparatto

2 A. The same person that does the  
3 paper copy, the hard copy, or put it in the  
4 computer.

5 Q. If it's your week, you put it on  
6 the clipboard --

7 A. And you are responsible for it.

8 Q. And you transmit it?

9 A. Correct?

10 Q. Do you know where you transmit  
11 it to?

12 A. Somewhere in corporate.

13 Q. Has anyone from corporate ever  
14 spoken to you about checklists that you have  
15 filled out?

16 A. No.

17 MR. BAUER: Objection as to  
18 form.

19 Q. In terms of hourly associates  
20 who are making minimum wage, is there a  
21 procedure to increase their hourly rate of pay?

22 A. There's two procedures that can  
23 be done to increase their pay. Most of the time  
24 it's based on their annual review, and there's  
25 times where they can receive a merit increase.

1 J. Paparatto

2 Q. A merit increase?

3 A. Correct.

4 Q. Who has the authority in the  
5 store to award an associate a merit increase?

6 A. I believe the bottom line has to  
7 be approved by the district manager, but the  
8 store manager can go to the district manager, or  
9 I can go to the district manager, I believe they  
10 have to approve it.

11 Q. When you say, "bottom line,"  
12 there's an actual form that has to be filled  
13 out?

14 A. Yes, they have to fill it out.

15 Q. When you say, "they," who is  
16 they?

17 A. The district manager has to fill  
18 out that form.

19 Q. Have you heard of the phrase a  
20 smart payroll report or a smart report?

21 A. Yeah.

22 Q. What is a smart report?

23 A. There's a report that comes out,  
24 I'm not sure if it's monthly or weekly, it's  
25 broken down weekly. It tells you what amount of

130

1 J. Paparatto

2 hours you can have in each area of the store.

3 They call them payroll budgets. Depending on

4 what budget you are looking at, if you are

5 looking at the cashiers, it tells you how many

6 hours your store should use for cashiering, how

7 many hours for the backroom and how many hours

8 for the sales floor.

9 Q. This is a report that comes  
10 out --

11 MR. VALLI: Withdrawn.

12 Q. Is this a report that comes out  
13 before you make the schedule?

14 MR. BAUER: Objection as to  
15 form.

16 Q. Before the schedule is made by  
17 Kronos?

18 MR. BAUER: Objection as to  
19 form.

20 A Yes, it gives you the full month  
21 on it. I would assume it's monthly, even though  
22 you have all the weeks on there, and it  
23 corresponds to what Kronos produces. You can  
24 take that report and go into Kronos and they  
25 will match up.

131

1 J. Paparatto

2 Q. I guess my question is, it is  
3 not a post-schedule report criticizing the prior  
4 schedule?

5 A. No, no, it tells you what you  
6 have to use, and that is what Kronos is basing  
7 its production off of.

8 Q. What, if any, involvement do you  
9 have in the creation of the smart payroll  
10 report?

11 MR. BAUER: Objection as to  
12 form.

13 A. You have -- I'm not sure what  
14 the timeline is, it's a couple of months. Those  
15 are made a couple of months in advance. If I  
16 feel there's an issue, like my backroom is not  
17 getting enough time or whatever, I can call up  
18 and say what can you do for me, I have a  
19 problem, and they will either say, okay, I agree  
20 with you, but it will take eight weeks or so to  
21 produce that change. It is not instantaneously,  
22 unfortunately.

23 Q. Is that something you have to  
24 discuss with the store manager?

25 MR. BAUER: Objection as to

132

1 J. Paparatto

2 form.

3 A. I don't have to, but I probably  
4 would, but certainly don't have to, I can just  
5 pick up the phone and do that.

6 Q. Is the fact that you need more  
7 help in the backroom something you would have  
8 previously discussed with a store manager?

9 MR. BAUER: Objection as to  
10 form.

11 A. I would imagine. Again,  
12 everything we do is discussed together as a  
13 group.

14 Q. Okay. In terms of the, I guess  
15 they are called budgets, area budgets or  
16 department budgets?

17 A. Payroll budgets.

18 Q. In terms of the payroll  
19 budget --

20 A. Yes.

21 Q. -- do you know if it changes  
22 from week to week?

23 MR. BAUER: Objection as to  
24 form.

25 A. Yeah, the form will stay the

138

1 J. Paparatto

2 MR. BAUER: Objection as to  
3 form.

4 A. I don't know how many walks she  
5 does with the other stores. I would imagine I'm  
6 getting my share.

7 Q. When you say you are in the  
8 district store, can you explain what you mean by  
9 that?

10 A. Each district manager has a  
11 specific store that they work out of. In this  
12 case, my district manager runs her business out  
13 of my store.

14 Q. Do you know how often the  
15 district manager is in your store on a weekly  
16 basis?

17 A. At least once a week, every  
18 Monday.

19 Q. Every Monday?

20 A. I'll stay away from universals.  
21 On the whole, Mondays.

22 Q. It's okay. I understand.

23 Does management, store  
24 management now, at your store, hold store  
25 meetings?

1 J. Paparatto

2 A. Yes.

3 Q. How often?

4 A. It depends, it's not a set.

5 Q. It's not a set time?

6 A. No.

7 Q. Okay.

8 A. I'm a meetings guy, I like to  
9 hold what we call huddles. Believe it or not,  
10 I'm pretty talkative. I'll get my group  
11 together, usually in the mornings when I can.  
12 Is it every morning, absolutely not. Whenever I  
13 feel the need to give an upbeat meeting, I'll  
14 grab everybody and start yapping and telling  
15 them what is going on in the store. There is a  
16 required two store meetings per year.

17 Q. That's per year?

18 A. Yes, per year, a big store  
19 meeting where you try to get everybody all  
20 together at once.

21 Q. Okay. Are there any management  
22 meetings that are held?

23 A. Yes.

24 Q. How often are those held?

25 A. Usually on Mondays.



140

1 J. Paparatto

2 Q. Is the DM present for these  
3 meetings?

4 A. In a way. Not at the physical  
5 meeting. You usually have a phone call with the  
6 DM first with all members of -- I can't say all  
7 members of management -- with at least the store  
8 managers, sometimes assistants will take the  
9 phone call. I happen to be on all of them so I  
10 can only go by myself. But when we have our  
11 store meetings, no, the district manager is not  
12 present.

13 Q. Are there any DM meetings  
14 involving other stores, that you participate in?

15 MR. BAUER: Objection as to  
16 form.

17 A. Yes, my DM likes to have  
18 meetings, so I participate in a few. She is a  
19 new DM herself.

20 Q. How many stores are in your  
21 district?

22 A. Nine I think.

23 Q. Nine?

24 A. I think. I would have to count  
25 them out. Near nine. Maybe I'm pushing her a

1 J. Paparatto

2 little bit, maybe seven.

3 Q. Is there a dress code at T.J.  
4 Maxx?

5 A. Yes.

6 Q. What is the dress code?

7 A. I would have to look at the  
8 sheet specifically, but there's -- it's part of  
9 the new hire packet what the dress code is;  
10 specifically no blue jeans, no shorts, no  
11 T-shirts with logos on them. Off the top of my  
12 head.

13 Q. Is this the dress code that's  
14 been in existence since you have been a T.J.  
15 Maxx employee?

16 MR. BAUER: Objection as to  
17 form.

18 A. Yes.

19 Q. It's -- it's been applicable in  
20 each of the stores that you have worked in, yes?

21 MR. BAUER: Objection as to  
22 form.

23 A. Yes.

24 Q. Have you ever tried to alter the  
25 dress code?

145

1 J. Paparatto

2 them. We'll do something every once in a while,  
3 get so many credit cards and we'll buy you  
4 lunch. If I see you doing something above and  
5 beyond, besides the brilliant card, you know,  
6 maybe we'll give them a couple of reach cards or  
7 something like that.

8 We are doing something specific  
9 now with the bulletin boards, we are handing out  
10 bulletin boards for the associate to take care  
11 of and the winner will get a prize.

12 Q. The employees that receive, I  
13 guess, associate of the quarter?

14 A. Yes.

15 Q. Are they entered then into a  
16 national program?

17 A. Not that I'm aware of. They do  
18 receive a certificate from one of their regional  
19 vice presidents with their name on it, and they  
20 receive a fifty dollar gift card. I don't  
21 believe they receive a plaque. They had their  
22 name up on a plaque on the wall, I think they  
23 got rid of that.

24 Q. It's a gift card to T.J. Maxx?

25 A. Yes.

1 J. Paparatto

2 MR. BAUER: Can we take a break  
3 if this is a good time for you?

4 MR. VALLI: Sure.

5 (Recess was taken from 12:52 to  
6 1:05 p.m.)

7 MR. VALLI: Back on the record.

8 Q. In terms of the hours you work,  
9 per week?

10 A. Right.

11 Q. I know you said five days of ten  
12 with a break, do you actually work more than  
13 that, though?

14 MR. BAUER: Objection as to  
15 form.

16 A. On occasion, yes.

17 Q. Are you ever scheduled for more  
18 than five days a week?

19 A. Physically scheduled?

20 Q. Yes.

21 A. Around the holidays there are  
22 specific times where we are put on six days.

23 Q. That's a ten-hour day as well?

24 A. Yes.

25 Q. Six ten-hour days?

147

1 J. Paparatto

2 A. Yes.

3 MR. BAUER: Objection as to  
4 form.

5 Q. For how many weeks are you  
6 normally scheduled for six ten-hour days?

7 MR. BAUER: Objection as to  
8 form.

9 A. I believe it's two additional  
10 weeks -- two weeks.

11 Q. And you --

12 A. They are not consecutive, it  
13 would be one week then another.

14 Q. Do you ever work more than ten  
15 hours in a day?

16 MR. BAUER: Objection as to  
17 form.

18 A. As far as exactly ten hours,  
19 yes, I'll get out maybe a quarter after 5, 5:30  
20 if I'm not done.

21 Q. In terms of the profit and loss  
22 at a store, what, if any, involvement do you  
23 have in controlling that?

24 A. It kind of goes in conjunction  
25 with the shrink you were talking about. My job

1 J. Paparatto

2 is based on the profit.

3 Q. What do you mean?

4 A. My job is to make sure the store  
5 is functioning at its best to increase sales and  
6 increase profits. I could base most of my job  
7 around that; getting the stock out, making sure  
8 the cashiers are performing and getting the  
9 customers in and getting the customers out.  
10 Make sure the store is full, neat, clean and  
11 packed. That is my job description, I'm all  
12 about the profit and the sales.

13 Q. That's a merchandising position?

14 MR. BAUER: Objection as to  
15 form.

16 A. Any -- that's operations, that's  
17 merchandising, your job as a manager is to  
18 produce, supervise your subordinates and make  
19 sure you are functioning at peak.

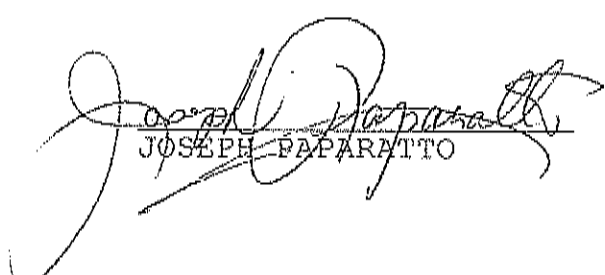
20 As far as the loss, we protect  
21 the assets, you want to reduce the amount of  
22 paperwork errors. You brought up paperwork  
23 errors before. Is there a retraining necessary  
24 to get these associates, you know, not making  
25 paperwork errors, you know, how can we eliminate

185

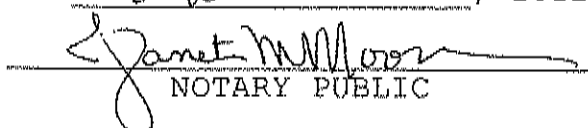
ACKNOWLEDGEMENT

STATE OF CT )  
 ) ss.: City of Naugatuck  
COUNTY OF New Haven

I have read the foregoing record  
of my testimony taken at the time and place  
noted in the heading hereof and I do hereby  
acknowledge it to be a true and correct  
transcript of same.

  
JOSEPH PAPARATTO

Subscribed and sworn to  
before me this 28 day  
of March, 2012.

  
NOTARY PUBLIC

Janet M Moore  
Notary Public, Connecticut  
My Commission Expires Mar. 31, 2014

# Exhibit 5



STATE OF NEW YORK

§

COUNTY OF NASSAU

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AFFIDAVIT OF ANDREA CASALE

BEFORE ME, the undersigned notary, on this day, personally appeared ANDREA CASALE, a person whose identity is known to me or who showed a valid driver's license and who upon her oath swore after I administered an oath to her upon her oath she states as follows:

1. My name is Andrea Casale. I am over the age of 18 and am of sound mind and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. I began my employment with T.J. Maxx in Hicksville, New York, on May 17, 2005 as a Merchandise Coordinator. I was paid on an hourly basis.
3. As a Merchandise Coordinator, I had to clock in and clock out each day as I was paid by the hour. Sometimes I worked overtime, but I was told by my Store Manager not to punch out and that my Store Manager would punch me out. I later learned that my Store Manager did punch the time card for me. However, the time card would not show the extra hours that I worked.
4. My Manager told me that he needed to get approval from his District Manager about whether or not he could grant me overtime.
5. As a Merchandise Coordinator, my duties involved receiving shipments, separating merchandise, preparing it to go out on the floor and then merchandising the items on the floor. However, I was often asked to ring the register even though these were not my duties as a Merchandise Coordinator. I would have to ring the register sometimes up to five hours at a time, which left very little time for me to fulfill my duties merchandising the floor.
6. I was promoted to Key Carrier in 2006, but the promotion involved no change in my hourly rate. I was still paid by the hour. I asked my Store Manager for a raise, and he told me that the District Manager said, "This position does not come with a raise." I was responsible for opening the store alone and performing hourly work. However, I still requested to receive a raise and told my manager

Affidavit of Andrea Casale

that "I do not want to work for free." As a result, I received a seventy-five cent raise.


7. In July of 2007, I was promoted to Assistant Store Manager and received a salary rather than an hourly rate. I was required to drive from Hicksville to Riverhead each day for six weeks for training. During the training, I often rang the registers, helped with merchandising, unloaded the truck, and did very little managerial work. The Manager at the Riverhead store showed me a manual with a description of assistant manager duties, but I was not provided with much hands-on training to become an Assistant Manager. I was constantly receiving truck shipments, merchandising, and ringing the register - duties traditionally performed by hourly workers.
8. Also while in training, I had to work a three-day consecutive visit in Riverhead, requiring me to drive to Riverhead from Hicksville, arrive at the store at 7 a.m. and leave at 11 p.m. each day.
9. I requested to be reimbursed for gas money while in training. This request was denied.
10. I also was sent to an Assistant Manager training that took place in New Jersey. Assistant Managers from all different locations came to this training. In the training, I recall being taught how to prevent unions from forming in our stores.
11. In September of 2007, I was placed in the Commack T.J. Maxx store as an Assistant Manager. As an Assistant Manager I received a starting salary of \$37,500. I regularly performed duties of an hourly worker, I worked between sixty and eighty hours per week, and I had to work almost every weekend.
12. I also worked in other T.J. Maxx stores as an Assistant Manager. I worked in Kings Park, Oceanside, Massapequa, Selden, and Rosedale. My experiences at all the stores was the same.
13. At each of these locations, I worked with a number of Assistant Managers, at least five to ten, but sometimes more, and for each Assistant Manager the duties were the same. All of the Assistant Managers were heavily involved in performing hourly duties including unloading the truck, ringing the registers, cleaning the store, merchandising, and stocking the store.
14. Assistant Managers, regardless of their locations were seen as "the clean-up crew" when any store in the vicinity was going to receive a visit from corporate. All Assistant Managers in the vicinity would be required to go to a particular store to help clean and merchandise.
15. However, when corporate or a District Manager visited a store, Assistant managers were not to perform the hourly type duties we normally did. I was told

- to watch the frontend, but my store Manager told me not to ring because the District Managers could not see us ringing.
16. When I unloaded the truck, sometimes I was actually working in the truck, opening up boxes, sorting items, and then bringing merchandise into the store.
  17. Some days I had to work from open to close. I would receive merchandise and carry merchandise from the truck to inside the store. Most days I worked from 7 a.m. until 7 p.m., six days per week. If I tried to take a break, my Manager would give me dirty looks, so I often worked straight hours and I never had enough help from other associates.
  18. I also had to clean the bathrooms often. The restroom had a list with a manager schedule on it. We had to clean the restroom every day and sign the sheet on the wall when we cleaned. However, there were other times when I was ringing the register and I could not get proper relief to use the bathroom myself. I recall working a 12 hour shift and not being able to use the bathroom the entire day.
  19. I worked like an animal – sometimes 12 hours a day, six days per week because we were required to. I had very few days off. I recall having oral surgery and having to come to work the following day. I could not move my mouth for a week and when I was ringing the register, a customer asked me, "Why are you not smiling?" I could not physically smile, move my mouth, or properly respond to the customer.
  20. As an Assistant Manager I spent at least two hours per day ringing the register during the week. I always rang the register on the weekends.
  21. At times, I also interviewed prospective associates; however, I always needed the approval of my Store Manager before being able to hire anyone.
  22. In one circumstance I was able to fire an associate because Security personnel for T.J. Maxx saw that the employee had stolen merchandise and they told me that I needed to tell the employee that he was terminated. Other than in this instance, I did not have the authority to terminate employees.
  23. Over ninety percent of my time was spent doing non-managerial duties. On Sundays, when I was required to do payroll, I did the payroll from 9 a.m. to 11 a.m. before the store opened, because once the store opened there were too many hourly duties to fulfill.
  24. I resigned on October 31, 2008 because I found another job that was willing to pay me for the hours that I worked, and I did not want to work for a company that refused to pay me for the time that I put in.

25. In November of 2011, an attorney who represents T.J. Maxx contacted me. He told me that if I receive a subpoena from the Plaintiff's attorney to testify in court or any other capacity, I do not have to comply or do as it tells me to do. I told him that I could not ignore a subpoena and I would be more than happy to testify against T.J. Maxx.

26. If I was permitted to, I would want to join the lawsuit filed by Mohammed Ahmed against T.J. Maxx.

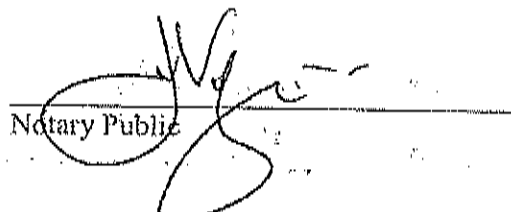
Further, Affiant sayeth not.

  
Andrea Casale

SWORN AND SUBSCRIBED TO BEFORE ME, the undersigned authority, by  
Andrea Casale on this 21<sup>st</sup> day of November 2011.

My Commission Expires:

James Vagnini  
Notary Public, State of New York  
No. 02VA6081761  
Qualified in Nassau County  
Commission Expires 01/25/20 15

  
Notary Public

# Exhibit 6

STATE OF NEW YORK  
COUNTY OF NASSAU

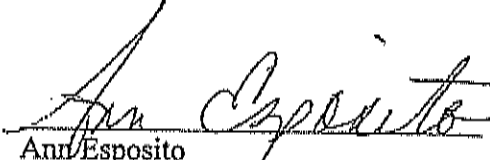
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**AFFIDAVIT OF ANN ESPOSITO**

BEFORE ME, the undersigned notary, on this day, personally appeared ANN ESPOSITO, a person whose identity is known to me or who showed a valid driver's license and who upon her oath swore after I administered an oath to her upon her oath she states as follows:

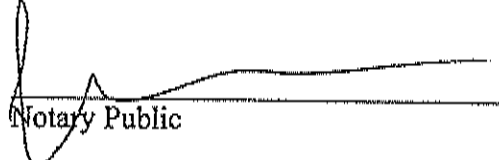
1. My name is Ann Esposito. I am over the age of 18 and am of sound mind and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. I was employed as a Coordinator in the Home Accents Department at T.J. Maxx in Oceanside, New York, from March 2008 until June of 2011. I was paid on an hourly basis.
3. I worked with Assistant Manager, Mohammed Ahmed, and witnessed Mr. Ahmed, as well as all of the Assistant Managers, involved in the same kind of work as hourly employees on a regular basis. Our Store Manager, Theresa Klotz would tell all employees, including Assistant Managers, what to do and we would have to do it, even if it went above and beyond our job descriptions. All hourly employees and Assistant Managers would have to work the registers, stock the shelves, unload the trucks, take out the garbage, and clean the bathrooms.
4. Shifts were disorganized. Store Managers required all employees, including Assistant Managers, to do all of this work at any given time took away from everyone's expected job responsibilities.
5. Based on my observations, Mr. Ahmed was treated the same way as all other Assistant Store Managers.
6. If Ms. Klotz was not at the store, she would give Mr. Ahmed and other Assistant Managers directions to give to the Coordinators and Associates. Assistant Managers simply relayed her directions to all other employees; they seemed to have limited authority of their own.
7. Assistant Managers had to work a lot more hours than I had to. They routinely worked hours in excess of forty in a work week.

Further, Affiant sayeth not.

  
Ann Esposito

SWORN AND SUBSCRIBED TO BEFORE ME, the undersigned authority, by  
 on this 9<sup>th</sup> day of March, 2012.

My Commission Expires:

  
Notary Public

JUSTIN J. JANNONE  
Notary Public, State of New York  
No. 02JA5063585  
Qualified in Nassau County  
Commission Expires July 22, 20 14